



SELECT BOARD CALENDAR 02/07/2023 | HYBRID MEETING

SELECT BOARD HEARING ROOM
6TH FLOOR, BBROOKLINE TOWN HALL

OR

- Heather A. Hamilton – Chair
- John VanScoyoc – Vice Chair
- Bernard W. Greene
- Miriam Aschkenasy
- Michael Sandman
- Charles Carey – Town Administrator

Please click this URL to Register & Find the Information to Join as an Attendee via your Confirmation Email:

https://brooklinema.zoomgov.com/webinar/register/WN_j-IUHFLNQwuJPEjvRq_QVA

To Join by Phone: +1 646 828 7666
Webinar ID: 161 114 1445

To Watch and Comment:
BrooklineInteractive.org/live

1. ORGANIZATION OF THE BOARD

5:30 PM Reorganization of Select Board leadership.

2. ANNOUNCEMENTS/UPDATES

Select Board to announce recent and/or upcoming Events of Community Interest.

3. PUBLIC COMMENT

Public Comment period for residents who requested to speak to the Board regarding Town issues not on the Calendar.

Up to fifteen minutes for public comment on matters not appearing on this Calendar shall be scheduled each meeting. Persons wishing to speak may sign up in advance beginning on the Friday preceding the meeting or may sign up in person at the meeting. Speakers will be taken up in the order they sign up. Advance registration is available by calling the Select Board's office at 617-730-2202 or by e-mail at kmacgillivray@brooklinema.gov. The full Policy on Public Comment is available at <http://www.brooklinema.gov/376/Meeting-Policies>

4. MISCELLANEOUS

Approval of miscellaneous items, licenses, vouchers, and contracts.

4.A. Question of approving the meeting minutes from January 31, 2023.

4.B. Question of approving the authorization to hire request for a Pipe Layer/Laborer (LN-02) in the Water and Sewer Division of the Department of Public Works.

- 4.C. **Question of approving Change Order #8 with Lambrian Construction in the amount of \$20,006.00 for work related to the BHS Quad and Third Floor Classrooms Renovations project.**
- 4.D. **Question of approving a proclamation recognizing national Black History Month.**
5. **CALENDAR**
Review and potential vote on Calendar Items
6. **MBTA COMMUNITIES STATEMENT**

Discussion & possible vote on a statement regarding Form-Based Zoning Along the Harvard Street Corridor.
7. **SCHOOL COMMITTEE VACANCY BALLOT LANGUAGE**

Question of placing the position of School Committee Member for a term of 1 year to fill a vacancy on the ballot at the May 2, 2023 Annual Town Election.
8. **MWRA BOND SALE**

Question of approving the MWRA LWSAP Financial Assistance and Loan Agreement package as provided and authorize the Town Administrator and the Finance Director/Treasurer to sign and execute the agreement on behalf of the Town.
9. **LOCAL EMERGENCY PLANNING COMMITTEE SLATE AND BYLAWS**

Presentation from Emergency Management Coordinator Cheryl Snyder and possible vote on the bylaws and slate for the Local Emergency Planning Committee (LEPC).
10. **BROOKLINE DAY UPDATE**

Update on Brookline Day from Recreation Director Leigh Jackson; the event is scheduled for September 10, 2023.
11. **CIVILIAN COMPLAINT POLICY**

Presentation from PCAC Chair Judith Fabricant and Acting Chief Paster on revisions to the Town's civilian complaint policy for adoption by the Select Board.
12. **HEALTH DEPARTMENT MARIJUANA STUDY UPDATE**

Presentation from Health Commissioner Sigalle Reiss on the status of the Heath Department's Marijuana Research Study.

13. APPOINTMENTS**Appointment/reappointment to the following
boards/commissions:****Planning Board****Planning Process Study Committee**

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services, or activities. The Town of Brookline does not discriminate on the basis of disability in its hiring or employment practices. This notice is provided as required by Title II of the Americans with Disabilities Act (ADA) and by Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information may be sent to Sarah Kaplan, Community Relations Specialist and ADA / Section 504 Coordinator. Persons with disabilities who need either auxiliary aids and services for effective communication, written materials in alternative formats, or reasonable modifications in policies and procedures in order to access programs and activities of the Town of Brookline are invited to make their needs and preferences known to the ADA Coordinator. This notice is available in alternative formats from the ADA Coordinator.

CHANGE
ORDER

4. CO #08

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☒
FIELD ☐
OTHER ☐

AIA DOCUMENT G701

PROJECT: Brookline High School
115 Greenough Street
BROOKLINE, MA 02445

CHANGE ORDER NUMBER: 008

DATE: 1/11/2023

ARCHITECT'S PROJECT NO.:

TO CONTRACTOR:

CONTRACT DATE: March 29, 2022

LAMBRIAN CONSTRUCTION Corp.

CONTRACT FOR: 3rd Floor Renovation & Quad Repairs

The Contract is changed as follows:

Approved Values

PCO#11R - RFI07: Shoring Wall @ Room 373	\$5,279.00
PCO#54R - Excavate / Pour (4)ea. new concrete light bases	\$6,604.00
PCO#64 - Re-excavate and Reinstall Sonotube @ (1)ea. light base	\$1,866.00
PCO#65 - Rubber base @ lockers Phase1 corridor	\$1,194.00
PCO#66 - STEM Wing Bench Fascia Demo	\$3,625.00
PCO#67 - Rubber Base @ Classrooms	\$1,438.00

TOTAL

\$20,006.00

APPROVED:


President

Not valid until signed by the Owner, Architect and Contractor.


The original (Contract Sum) (Guaranteed maximum Price) was	\$8,482,000.00
Net change by previously authorized Change orders	\$557,771.60
The (Contract Sum) (Guaranteed maximum Price) prior to this Change order was	\$9,039,771.60
The (Contract Sum) (Guaranteed maximum price) will be (increased) (decreased) (unchanged) by this Change Order in the amount of	\$20,006.00
The new (Contract Sum) (Guaranteed maximum Price) including this Change order will be	\$9,059,777.60

The Contract Time will be (increased) decreased) (unchanged) by

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This summary does not reflect changes in the Contract Sum, Contract #08 or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

GO #08
4.C.

William Rawn Associates, Architects Inc.	Lambrian Construction Corporation	Town Of Brookline
ARCHITECT	CONTRACTOR	OWNER
27 School Street, Boston ma 02108	420 Turnpike Street, Canton, Ma 02021	333 Washington St, Brookline, Ma 02445
Address Andrew Jonic, AIA Associate Principal William Rawn Associates	Address	Address
BY 	BY James Lambrianidis - President	BY
DATE January 12, 2023	DATE 01/11/2023	DATE

January 6, 2023

WILLIAM RAWN ASSOCIATES, Architects Inc.
 27 School Street
 BOSTON, MA 02108

Project:
BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
115 Greenough Street
BROOKLINE , MA 02445

PCO #11 R

OBJECT:
Per RFI 07 Response:
Installation of (2) Shoring posts under existing "C" channel.
Add Metal Stud Back-up Framing + Kicker supports prior to wall demolition.

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
Quote:							
	See NG Environmental Proposal - dated 06/16/22, Revised 1/6/2023	LS	1	\$1,579.02	\$1,579.02		
	Subtotal				\$0.00		
	G.C. Fees (5%) - ADD	%	5.00%		\$78.95		
					\$1,657.97		
	Bond Fee (1.5%) - ADD	%	1.50%		\$24.87		
	TOTAL				\$1,682.84	\$1,682.84	
Materials: ADD							
	Metal Studs, Metal Tracks, Fasteners, Drill bits, Drywall, Coumpound, Tape, etc.	LS	1	\$425.00	\$425.00		
	Subtotal				\$425.00	\$425.00	
Labor: ADD							
	(3) carpenters - 8hrs @ \$82.52/hr	hrs	24	\$82.52	\$1,980.48		
	Insurance and Tax on Labor (33%)	%	33%		\$653.56		
	Subtotal				\$2,634.04	\$2,634.04	
	Subtotal					\$4,741.88	
	G.C. Fees (15%) - ADD	%	15.00%			\$458.86	
						\$5,200.73	
	Bond Fee (1.5%) - ADD	%	1.50%			\$78.01	
	TOTAL					\$5,278.75	

SAY: \$5,279.00

TOTAL ADD AMOUNT: Five Thousand Two Hundred Seventy Nine Dollars.

Sincerely,

Alex Galanos - Project Manager
Lambrian Construction, Corp



Recommended for approval by the Town of Brookline
 Andrew Jonic, AIA
 Associate Principal
 William Rawn Associates
 1/8/23



NG Environmental Contractors, Inc.
Asbestos Abatement · Lead Paint · Selective Demolition · Mold · Haz-Mat

Date: 06/16/2022

To Alex Galanos
Estimator/Project Manager
Lambrian Construction

Project: Brookline High School

Re: COR # 2 Shoring

PROPOSAL SUMMARY:

NG Environmental Contractors, LLC is pleased to submit this proposal for the aforementioned project, to be completed for the lump sum of **\$ 1,579.02** (One Thousand Five Hundred Seventy Nine Dollars and Two Cents) for the scope or work listed below in this proposal. NG Environmental Contractors will supply all labor, equipment, materials, and disposal to complete the scope of work listed below. NG Environmental Contractors will require the owner to provide power and water to complete this scope of work listed in this proposal. **Please note:** Proposal is based on prevailing wage rates and **void** after ninety (90) days.

SCOPE OF WORK

Man Hours	14
Rate per hour	\$ 68.00
Sub Total	\$ 952.00
Burden (35.03%)	\$ 333.48
Total Labor	\$ 1,285.48

Materials	\$ 00.00
Equipment	\$ 150.00
Disposal	\$ 0.00
Sub Total	\$ 1,435.48
OH \$ P (10%)	\$ 143.54

Gran Total:	\$ 1,579.02
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Respectfully submitted

Nolberto Galicia

NG Environmental Contractors Inc

NG ENVIRONMENTAL CONTRACTORS

WORK ORDER FORM

GENERAL CONTRACTOR: LAMBRIAN CONSTRUCTION

PROJECT NAME: BROOKLINE HIGH SCHOOL

DATE: 05 / 04 / 2022
Month Day Year

PROJECT LOCATION: 115 Greenough st. Brookline, Ma

Day of the Week:

☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday
☐ Saturday ☐ Sunday

☐ ASBESTOS

☐ DEMOLITION

☐ LEAD

☐ HAZMAT

☐ MOLD

No	Name	Hours	Equipment	Material
1	Antonio Arana	4	2 shoring post.	
2	Ingrid Arana	4		
3				
4				
5				
6				
7			14 men hours.	
8				
9			20 M/HOURS	Void
10				
11				
12				
13				
14				
15				
TOTAL HOURS:		8		

DESCRIPTION OF WORK

Activity #1: Place 2 shoring post under Channel "C".

Installation, Dismantling and Rental

Activity #2: Phase I

Activity #3:

Activity #4:

I do hereby authorize
NG ENVIRONMENTAL CONTRACTORS INC
To perform the above-described work

Qu 5-12-2022
GC Representative -Signature

Supervisor-Signature

NG Environmental Contractors Inc

WORK ORDER FORM

GENERAL CONTRACTOR: LAMBRIAN CONSTRUCTION

PROJECT NAME: BROOKLINE HIGH SCHOOL

DATE: 05 / 09 / 2022
Month Day Year

PROJECT LOCATION: 115 Greenough st. Brookline, Ma

Day of the Week:

☒ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday
☐ Saturday ☐ Sunday

☐ ASBESTOS

☐ DEMOLITION

☐ LEAD

☐ HAZMAT

☐ MOLD

No	Name	Hours	Equipment	Material
1	Jonathan Montero	4		
2	Rogue Acosta	4		
3	Junior Valerio	4		
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTAL HOURS:		12		

6 M/Hours
Shoring Post

Activity # 1: Place shoring posts under Channel "C"

Activity # 2: ~~Open holes on ceiling for investigation~~ Void 6 M/Hours

Activity # 3:

Activity # 4:

I do hereby authorize
NG ENVIRONMENTAL CONTRACTORS INC
To perform the above-described work

 5-12-2022

GC Representative -Signature

Supervisor-Signature

NG Environmental Contractors Inc

November 2, 2022

WILLIAM RAWN ASSOCIATES, Architects Inc.
 27 School Street
 BOSTON, MA 02108

Project:
BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
 115 Greenough Street
 BROOKLINE, MA 02445

PCO #54 REVISED

OBJECT:
 Per RFI 136 / Per RFI 147 / Per Field Bulletin 22.2R
 CM CONWAY / MARGUERITE
 Excavate and cast-in-place (4) new concrete light bases.

This change order proposal is rejected

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
Quote:							
	See C.M. CONWAY's Quote, dated 10/26/22	LS	1	\$7,623.00	\$7,623.00		
	See MARGUERITE CONCRETE's Quote / PCO#001, dated 10/27/23	LS	1	\$5,693.56	\$5,693.56		
	Subtotal				\$13,316.56	\$5,693.56	
	G.C. Fees (5%) - ADD	%	5.00%		\$665.83	\$284.68	
					\$13,982.39	\$13,982.39	\$5,978.24
Materials: ADD							
	Anchor Bolts set - 18"	EA	16	\$30.00	\$480.00		
	G.C. Fees (10%) - ADD	%	10.00%		\$48.00		
	Subtotal				\$528.00	\$528.00	
Labor: ADD							
	N/A						
	Subtotal				\$14,510.39	\$6,506.24	
	Bond Fee (1.5%) - ADD	%	1.50%		\$217.66	\$97.59	
	TOTAL				\$14,728.04		\$6,603.83
	SAY:				\$14,728.00		\$6,604.00

TOTAL ADD AMOUNT: Forteen Thousand Seven Hundred Twenty Eight Dollars.

NOTE: Electrical Work @ (4) Light Bases NOT Included.

Sincerely,

Alex Galanos - Project Manager
 Lambrian Construction, Corp

Marked value of this PCO is recommended for Town of Brookline approval.

Andy Jonic
 William Rawn Associates
 11/3/2022





EXCAVATORS • EQUIPMENT RENTALS

P.O. Box 14 Lynnfield, MA 01940

TEL: 781-334-2368
FAX: 781-334-4642
ccmconway@aol.com

October 26, 2022

Lambrian Construction Corp.
420 Turnpike Street
Canton, MA 02021

ATTN: Alex Galanos

RE: Pricing per RFI # 136 REVISED A
Excavation / backfill for 1 ea. light pole bases
Width of hole to be increased due to obstructions encountered

BREAKDOWN

1.) Excavator 6.0 hrs. @ \$300.00 per hr.	\$ 1,800.00
2.) Skid steer loader	1,350.00
3.) Laborers 4 ea.	2,280.00
4.) Dump truck 6.0	750.00
5.) Protection of n	750.00
6.) SUB-TOTAL	6,930.00
7.) O H & P	693.00
8.) TOTAL	\$ 7,623.00

Excavation for shallower light pole bases is less than excavation required for the base bid doc. light pole bases.

This change order proposal is rejected.

Alex Galanos

From: CM Conway Construction <ccmconway@aol.com>
Sent: Wednesday, November 2, 2022 7:59 AM
To: Alex Galanos
Subject: PCO # 54 RFI # 136 Revised A
Attachments: Scan_20221102.pdf

Alex,

Please see attached revised PCO. We realize that two of the bases have sono tubes in place so we will do no further work on them. The light base we just exposed the obstruction in needs to be cleaned up and confirm proper width for placement of sono tube since we just covered with plywood and left it after we encountered obstruction. The last base is where the majority of the work is required.

Thank you,
Bob Conway

C.M. Conway Construction, Inc.
www.cmconwayconstruction.com
tel. 781.334.2368

Project: 22-08-118 - Brookline HS Quad Repairs
 115 Greenough Street
 Brookline, Massachusetts 02445

Prime Contract Potential Change Order #001: RFI #136: QUAD-ELECT Pole Base Redesign

TO:	Lambrian Construction 420 Turnpike Street Canton, Massachusetts 02021	FROM:	Marguerite Concrete Inc. 11 Rosenfeld Drive Hopedale, Massachusetts 01747
PCO NUMBER/REVISION:	001 / 0	CONTRACT:	2208118 - Brookline HS F13 Exp
REQUEST RECEIVED FROM:		CREATED BY:	Jonathan Coppolino (Marguerite Concrete Inc.)
STATUS:	Pending - Proceeding	CREATED DATE:	10/27/2022
REFERENCE:	RFI 136	PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
		TOTAL AMOUNT:	\$5,693.56

POTENTIAL CHANGE ORDER TITLE: RFI #136: QUAD-ELECT Pole Base Redesign

CHANGE REASON: Client Request

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

RFI #136: QUAD-ELECT Pole Base Redesign
 Field Bulletin 22 and RFI 136

ATTACHMENTS:

[brookline_high_school_expansion_-_3rd_floor_renovation_&_quad_repairs-rfi#136-quad-elect_pole_base_redesign-202210252016.pdf](#)

Description	UOM	Unit Price	Quantity	Subtotal
Carpenter Foreman	hours	\$108.56	16	\$1,736.96
Laborer	hours	\$85.93	16	\$1,374.88
Cement Finisher	hours	\$103.55	4	\$414.20
Ironworker	hours	\$107.49	8	\$859.92
Formwork Mat.	sf	\$2.50	100	\$250.00
Rebar Mat.	ton	\$1,950.00	0.2	\$390.00
Buggy Rental	days	\$150.00	1	\$150.00
OH&P 10.00%				\$517.60
Grand Total:				\$5,693.56

Lambrian Construction
 420 Turnpike Street
 Canton, Massachusetts 02021

Marguerite Concrete Inc.
 11 Rosenfeld Drive
 Hopedale, Massachusetts 01747

SIGNATURE

DATE

SIGNATURE

DATE

SIGNATURE

DATE

December 30, 2022

WILLIAM RAWN ASSOCIATES, Architects Inc.
27 School Street
BOSTON, MA 02108

Project:

BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
115 Greenough Street
BROOKLINE, MA 02445

PCO #64

OBJECT:

C.M. CONWAY Construction, Inc.

Re-excavate, remove sono-tube (deteriorated due to weather exposure), re-install new sonotube, relocate electric conduit and backfill sono-tube for new light pole base at Quad entrance.

Work completed on 11/23/2022.

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
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Quote:

See C.M. CONWAY's PCO#18, WO# 010519, dated 12/29/2022 LS 1 \$1,751.20 \$1,751.20

Materials: ADD

N/A

Labor: ADD

N/A

	Subtotal				<u>\$1,751.20</u>
G.C. Fees (5%) - ADD	%	5.00%			\$87.56
					<u>\$1,838.76</u>
Bond Fee (1.5%) - ADD	%	1.50%			\$27.58
					<u>\$1,866.34</u>
	TOTAL				

SAY: \$1,866.00

TOTAL ADD AMOUNT: One Thousand Eight Hundred Sixty Six Dollars.

Sincerely,

Alex Galanos - Project Manager
Lambrian Construction, Corp



1/3/23 Recommended for ToB approval
Andy Jonic
William Rawn Associates, Architects Inc.



EXCAVATORS ● EQUIPMENT RENTALS

P.O. Box 14 Lynnfield, MA 01940

TEL: 781-334-2368
FAX: 781-334-4642
ccmconway@aol.com

December 29, 2022

Lambrian Construction Corp.
420 Turnpike Street
Canton, MA 02021

ATTN: Alex Galanos

RE: Brookline HS QUAD
T & M

Excavate to remove sono-tube for light base that was installed over a month ago was deteriorated due to exposure to weather while waiting on response on RFI concerning light base obstructions encountered. Remove sono-tube / re-excavated hole / install new sono-tube / backfill same / relocate electric conduit.

WORK ORDER # 010519

PCO # 18

DATE OF WORK: November 23, 2022

1.) Excavator	4.0 hrs. @ \$300.00 per hr.	\$1,200.00
2.) Laborer	4.0 hrs. @ \$98.00 per hr.	\$1,592.00
3.) O H & P		\$ 159.20
4.) TOTAL		\$1,751.20



C. M. Conway Construction, Inc.
P.O. Box 14
Lynnfield, MA 01940

Office 781-334-2368 Fax 781-334-4642
email ccmconway@aol.com

TO

Lambrian Construction Corp.
420 Turnpike Street
Canton, MA 02021

TERMS:

T+M

JOB INVOICE

010519

PHONE	DATE OF ORDER 11/23/22
ORDER TAKEN BY Bob Conroy	CUSTOMER'S ORDER NUMBER
<input type="checkbox"/> DAY WORK	<input type="checkbox"/> CONTRACT
	<input checked="" type="checkbox"/> EXTRA
JOB NAME/NUMBER Brookline H.S. Quad Reno	
JOB LOCATION 115 Greenough Street Brookline	
JOB PHONE	STARTING DATE 11/23/22

[illegible]

Work ordered by

~~Signature~~

I hereby acknowledge the satisfactory completion of the above described work.

Thank You

TAX

TOTAL

January 9, 2023

WILLIAM RAWN ASSOCIATES, Architects Inc.
 27 School Street
 BOSTON, MA 02108

Project:

BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
115 Greenough Street
BROOKLINE, MA 02445

PCO #65

OBJECT:

Per RFI 158

Phase 1 Corridor - Existing Lockers rubber base demolition

PAVILION_ New rubber base installation @ Lockers

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
--------	-------------	------	-----	-----------	----------	----------	-------

Quote:

See PAVILION FLOORS Quote COR-13, dated 12/21/22

G.C. Fees (5%) - ADD

LS	1	\$727.80	\$727.80	
%	5.00%		\$36.39	
Subtotal			\$764.19	\$764.19

Labor: ADD

Demo Existing Lockers' rubber base

2 Labors/2 hrs ea. @ \$69.85/hr

Insurance and Tax on Labor (30%) - on labor only \$2864.88

hrs	4	\$68.85	\$275.40	
%	30%		\$82.62	
Subtotal			\$358.02	
G.C. Fees (15%) - ADD			\$53.70	
Subtotal			\$411.72	\$411.72

\$1,175.91

Bond Fee (1.5%) - ADD

\$17.64

\$1,193.55

SAY: \$1,194.00

TOTAL ADD AMOUNT: One Thousand One Hundred Ninety Four Dollars.

Sincerely,

Alex Galanos - Project Manager
Lambrian Construction, Corp



Recommended for Town of Brookline Approval
 Andrew Jonic, AIA
 William Rawn Associates, Architects Inc.
 1/9/23



**PAVILION
FLOORS**
a **DIVERZIFY** company

December 21, 2022

Jim Lambrianidis
Lambrian Construction Corp.
420 Turnpike Street
Canton, MA 02021

Re: Brookline HS Expansion
Bid # Z0000271 CO- 013
Added Base at Lockers

Dear Jim:

We are pleased to quote on the above referenced project.

Scope of Work:

RCB01	Tarket 4" Rubber Cove Base
TRS01	Tarkett CTA-XX-J

Total Price	\$727.80
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If you require further assistance, please do not hesitate to contact me.

Cordially,

Bradley Anderson
Senior Project Manager
Pavilion Floors

Pavilion Floors Inc.

PROJECT NAME

Brookline HS Expansion

PROJECT NO.

220189

CONSTR. MGR

Lambrian Construction

COR NUMBER

COR-13

COR DESCRIPTION

Added Base at Lockers & 3 Reducers at 3 Doorways

COR DATE

12/21/2022

WORK OF SUBCONTRACTOR

Pavilion Floors Inc.

[illegible]

Mark up	10%	\$ 66.16
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Total	\$ 727.80
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January 9, 2023

WILLIAM RAWN ASSOCIATES, Architects Inc.
27 School Street
BOSTON, MA 02108

Project:

BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
115 Greenough Street
BROOKLINE, MA 02445

PCO #66R

OBJECT:

STEM WING:

Demolition of existing Benches Fascia for New solid surface fascia installation

Note: Demolition was not included in demo drawings.

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
--------	-------------	------	-----	-----------	----------	----------	-------

Labor: ADD

Demolition, Removal & Disposal of Benches Fascia
4 Labors / 8 hrs ea. @ \$69.85/hr

hrs 32 \$69.85 \$2,235.20

Subtotal \$2,235.20

Insurance and Tax on Labor (30%) - (\$2,235.20)

% 30% \$670.56

Subtotal \$2,905.76

Equipment: ADD

Dumpster

LS 1 \$200.00 \$200.00

Subtotal \$3,105.76

G.C. Fees (15%) - ADD

% 15.00% \$465.86

Subtotal \$3,571.62

Bond Fee (1.5%) - ADD

% 1.50% \$53.57

TOTAL \$3,625.20

SAY: \$3,625.00

TOTAL ADD AMOUNT: Three Thousand Six Hundred Twenty Five Dollars.

Sincerely,

Alex Galanos - Project Manager
Lambrian Construction, Corp



Recommended for Town of Brookline Approval
Andrew Jonic, AIA
William Rawn Associates, Architects Inc.
1/9/23

January 9, 2023

WILLIAM RAWN ASSOCIATES, Architects Inc.
 27 School Street
 BOSTON, MA 02108

Project:
BROOKLINE HIGH SCHOOL - 3RD FLOOR RENOVATIONS & QUAD REPAIRS
115 Greenough Street
BROOKLINE, MA 02445

PCO #67

OBJECT:
Per RFI 139R2
Prep. and Install Rubber Base @ classrooms, as shown on RFI139R2 drawings.

Item #	DESCRIPTION	Unit	QTY	\$ / unit	Subtotal	Subtotal	TOTAL
Quote:							
	See PAVILION FLOORS Quote COR-12, dated 12/21/22	LS	1	\$764.46	\$764.46		
	G.C. Fees (5%) - ADD	%	5.00%		\$38.22		
	Subtotal				\$802.68	\$802.68	
Materials: ADD							
	Wood Base toe kick	LS	1	\$100.00	\$100.00		
Labor: ADD							
	Install wood toe kick to accept rubber base						
	1 Carpenter / 4 hrs ea. @ \$83.42/hr	hrs	4	\$83.42	\$333.68		
	Insurance and Tax on Labor (30%) - on labor only	%	30%		\$100.10		
	Subtotal				\$533.78		
	G.C. Fees (15%) - ADD	%	15.00%		\$80.07		
	Subtotal				\$613.85	\$613.85	
	Subtotal					\$1,416.53	
	Bond Fee (1.5%) - ADD	%	1.50%		\$21.25		
	TOTAL					\$1,437.78	

SAY: \$1,438.00

TOTAL ADD AMOUNT: One Thousand Four Hundred Thirty Eight Dollars.

Sincerely,

Alex Galanos - Project Manager
Lambrian Construction, Corp



Recommended for Town of Brookline Approval
 Andrew Jonic, AIA
 William Rawn Associates, Architects Inc.
 1/9/23



**PAVILION
FLOORS**
a **DIVERZIFY** company

December 21, 2022

Jim Lambrianidis
Lambrian Construction Corp.
420 Turnpike Street
Canton, MA 02021

Re: Brookline HS Expansion
Bid # Z0000271 CO- 012
RFI 139R2

Dear Jim:

We are pleased to quote on the above referenced project.

Scope of Work:

RCB01 Tarket 4" Rubber Cove Base

Total Price \$764.46

If you require further assistance, please do not hesitate to contact me.

Cordially,

Bradley Anderson
Senior Project Manager
Pavilion Floors

Pavilion Floors Inc.

PROJECT NAME	Brookline HS Expansion
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PROJECT NO.	220189
-------------	--------

CONSTR. MGR	Lambrian Construction
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COR NUMBER	COR-12
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COR DESCRIPTION	RFI139R2
------------------------	-----------------

COR DATE	12/21/2022
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WORK OF SUBCONTRACTOR

Pavilion Floors Inc.

Description	Qty	Unit	Cost Per Unit	Total
Tarkett Cove Base 4" Allowance	240.00	LF	\$ 1.00	\$ 240.00
Proma 9750 4gl pail	1.00	EA	\$ 48.60	\$ 48.60
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
Labor				\$ -
Local 2168	4.00	HR	\$ 101.59	\$ 406.36
Local 2168 Overtime	0.00	HR	\$ 131.22	\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
Subtotal				\$ 694.96

Mark up	10%	\$ 69.50
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Total	\$ 764.46
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RESOLUTION OF THE SELECT BOARD
Regarding the MBTA Communities Act

WHEREAS, at its January 31, 2023 meeting, the Select Board, by a vote of 3-0 with 2 abstentions, approved an ARPA allocation in the amount of \$277,000 to provide emergency funding for a form-based zoning (FBZ) consultant for the purpose of (a) supporting Harvard Street as an MBTA Communities mixed-use district (the District), (b) providing building/architectural standards and design review safeguards for as-of-right projects, (c) maintaining in the FBZ Code the four-story scale currently allowed under Zoning, and (d) achieving compliance with the MBTA Communities statute (Gen. Laws, Ch. 40A, §3A) by the December 2023 deadline; and

WHEREAS, the Select Board now desires to provide further guidance to the Planning and Community Development Department (the Department) regarding the implementation of FBZ Code for the District and the engagement of community stakeholders in that process; and

WHEREAS, the Select Board's guidance is intended to ensure that said implementation is, and is perceived by community members as complying with the MBTA Communities statute in a manner that is consistent with four-story scale buildings as well as the goals of the Town in protecting and expanding commercial uses and the commercial tax base of the Town; increasing the net amount of non-luxury housing that is suitable for all stages of life; and facilitating racial, ethnic, and income diversity.

NOW, THEREFORE, BE IT RESOLVED:

1. That on or before March 21, 2023, the Department present, at a public meeting of the Select Board, a schedule of proposed dates for (i) community workshops and (ii) Select Board hearings before and after draft versions of a Zoning By-Law are completed; and
2. That at the March 21 meeting, the Department report on how the draft zoning could (a) incentivize the creation and retention of mixed-use developments within the proposed district commensurate with its current character, (b) disincentivize the demolition of existing rental units on Harvard Street, and (c) maintain the Town's inclusionary zoning standards for affordable housing.
3. That at the March 21 meeting, the Department report on the relative constraints and benefits of parking minimums and maximums along Harvard Street.
4. That the Department ensure its Comprehensive Planning process include strategies to plan for infrastructure (including parks and schools, for example) due to external forces such as regional population and housing growth, known development plans, and potential changes in our built environment due to our Zoning By-Law and state mandates such as the MBTA Communities Act.



TOWN OF BROOKLINE
Massachusetts
DEPARTMENT OF PUBLIC WORKS

Erin Chute Gallentine
 Commissioner

Interoffice Memorandum

To: Select Board

From: Erin Chute Gallentine, Commissioner of Public Works
 James W. Hersey, P.E., Director of Water & Sewer

Date: January 26, 2023

Re: MWRA Local Water System Assistance Program (LWSAP)
 Financial Assistance and Loan Agreements

Cc: Charles Carey, Town Administrator
 Lincoln Heineman, Finance Director/Treasurer

The Department of Public Works (DPW) requests approval of and authorization for the Town Administrator and Finance Director/Treasurer to sign the attached MWRA LWSAP Financial Assistance and Loan Agreements. Financial assistance from the MWRA comes in the form of a 0% loan. DPW will use the \$4,000,000.00 in funds to replace water meters. The distribution of funds is described in the attached letter from the MWRA dated January 24, 2023.

Replacing water meters is important because as they age out they typically under-register leading to lost revenue. Approximately 80% of the Town's water meters are at an age where they should be replaced according to MADEP Guidelines for Public Waters Systems. The funds will be utilized for multiple contracts including:

- engineering design, bidding, and construction management services
- purchasing meters through a National Cooperative Contract WM09-20
- and installation of the meters

The DPW respectfully requests that the Select Board vote to approve the MWRA LWSAP Financial Assistance and Loan Agreement package as provided and authorize the Town Administrator and the Finance Director/Treasurer to sign and execute the agreement on behalf of the Town.

There are (6) copies that need to be executed and returned to the MWRA on or before February 20, 2023.



8.A. MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA 02129

Frederick A. Laskey
Executive Director

Telephone: (617) 242-6000
Fax: (617) 788-4899
TTY: (617) 788-4971

January 24, 2023

Mr. Jay Hersey, P.E.
Director of Water & Sewer
Town of Brookline
333 Washington Street
Brookline, MA 02445

RE: MWRA Local Water System Assistance Program- Funding Distribution

Dear Mr. Hersey:

Enclosed please find the Financial Assistance and Loan Agreements for signature. Eligible funding for this project, LWSAP23-196/376 (2023 Water Meter Replacements) is \$4,000,000.00. Funding shall be in the form of an interest-free loan. The loan will be re-paid to the MWRA in ten equal installments (\$400,000.00 each), over a ten-year period, beginning one year from the original quarterly funding distribution date. Funding distribution is planned for on or about March 2, 2023. Initial loan repayment is scheduled for February 15, 2024.

The financial assistance award will require the issuance of a Water Bond verifying obligation of the community to repay the loan to the MWRA. An Opinion of Bond Counsel will be required with the Water Bond. The draft opinion of Bond Counsel and draft Water Bond must be received by MWRA no later than Monday, February 20, 2023 to ensure disbursement of funds on March 2, 2023.

Please print six copies (single-sided) of each agreement and forward the executed financial assistance and loan documents prior to Monday, February 20, 2023. Please note, a town seal is required on each copy of the loan agreement. If you have any questions or comments relating to these matters, please do not hesitate to contact me at claudia.baptista@mwra.com or (617) 788-4831.

Sincerely,

Claudia Baptista

Claudia Baptista
Project Manager
MWRA Community Support Program

cc: Erin Chute Gallentine, Commissioner DPW
Charles Carey, Town Administrator
Lincoln D. Heineman, Finance Director/Treasurer
Allie Goldberg, Weston & Sampson
Charlene Doucette, Locke Lord
Thomas Frontiero, MWRA Treasury.

8.A.

FINANCIAL ASSISTANCE AGREEMENT

BY AND BETWEEN

MASSACHUSETTS WATER RESOURCES AUTHORITY

AND

BROOKLINE, MASSACHUSETTS

This Financial Assistance Agreement is made by and between the Massachusetts Water Resources Authority, a body politic and corporate and public instrumentality, established under the provisions of Chapter 372 of the Acts of 1984, with its principal place of business at 100 First Avenue Charlestown, MA 02129, ("Authority" or "MWRA") and Brookline, MA, a municipal corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business at 333 Washington Street Brookline, MA 02445 ("Awardee") (collectively, "Parties");

WHEREAS, on June 30, 2010 the Authority Board of Directors voted to approve a program whereby the Authority was permitted to offer financial assistance to Waterworks system communities to improve local water systems.

WHEREAS, the Awardee intends to conduct, or is conducting, a local water system improvement project ("Project"); and

WHEREAS, the Awardee filed a Financial Assistance Application in which it furnished information about the Project to the Authority; and

WHEREAS, the MWRA will provide financial assistance to the Awardee for its Project under certain terms and conditions, hereinafter provided.

NOW THEREFORE, in consideration of the foregoing and the promises contained herein, the Parties agree that the Authority will provide and the Awardee will accept financial assistance under the following terms and conditions:

I. SCOPE OF SERVICES.

The Awardee has entered into or will enter into, within ninety (90) days of the execution of this Agreement, a contract with a consultant or contractor for local water system improvement, in accordance with the Awardee's competitive procurement practice, and the scope of such work is listed in Attachment A.

8.A.

II. FINANCIAL ASSISTANCE.

A. The Authority shall provide financial assistance ("Award") to the Awardee in the form of an interest-free loan. The total amount of the Award shall be \$4,000,000.00.

B. The Loan shall be governed by the attached Loan Agreement, which is incorporated herein by reference as Attachment C.

C. Upon execution of the Loan Agreement, the Authority shall initiate an electronic transfer of the total Award through the Automated Clearing House (ACH) having a pay date three business days after the execution date to the following designated account of the Awardee:

MMDT Account No. 4318740

Federal Tax ID No. 04-600-1102

D. The Authority shall not be obligated to provide additional financial assistance above the Award amount regardless of additional Project costs which may be incurred by the Awardee.

III. EFFECTIVE DATE OF AGREEMENT.

This Agreement will take effect on the date of execution of both the Loan Agreement and this Agreement. In the event that this Agreement and the Loan Agreement are executed on different dates, the effective date of this Agreement shall be the later of the two dates.

IV. TERM.

The term of this Agreement shall begin upon the date of execution of this Agreement, including the execution of the Loan Agreement, and; unless otherwise terminated under Section XXV of this Agreement, shall be in effect until the Awardee fully repays the Loan to the Authority in accordance with the terms of the Loan Agreement. As evidence that the final payment has been made, the Authority will send notice to the Awardee indicating that the Loan has been discharged.

V. PROJECT SCHEDULE.

Implementation of the Project must begin within ninety (90) calendar days of execution of the Agreement, including the Loan Agreement. The Project must comply with the Project Schedule listed in Attachment B.

It is the obligation of the Awardee to obtain all licenses, permits, easements or any other approvals necessary to begin and successfully complete the Project.

VI. EXPENDITURE VERIFICATION REQUIREMENTS.

A. Throughout the completion of the Project Scope of Services, the Awardee shall submit progress reports to the Authority, on forms provided by the Authority, which outline the overall progress of the Project, the progress of key Project tasks, and the total Project cost expended to date. The frequency and schedule for progress reporting is outlined within Section 5.1 of MWRA Local Water System Assistance Program Guidelines. Progress reports shall be submitted to:

Massachusetts Water Resources Authority
Charlestown Navy Yard
100 First Avenue
Boston, MA 02129
Attn: Local Water System Assistance Program

B. The Awardee shall append to each progress report information which documents eligible Project costs, including, but not limited to, consultant and/or contractor invoices; awardee labor, equipment, materials and other costs; and ancillary expenses. Time sheets and work summaries documenting any requests for force account work reimbursement must also be provided.

C. The Awardee shall exercise its best efforts to accomplish the Project set forth in the Scope of Services within the Award Amount established. In the event that an increase or decrease in the total Project cost is anticipated, or in fact occurs, the Awardee shall immediately notify the Authority in writing, and shall submit a status report including reasons for changes in Project cost, work completed to date, total dollars expended to date, and an estimate of the cost required to complete the Project.

VII. PROJECT INSPECTION.

The Awardee shall make the Project site and all Project records available to the Authority staff for review during the course of the Project. Authority staff may periodically monitor the progress of work to insure that the Project is: (1) proceeding substantially as defined in the Scope of Services; and (2) proceeding substantially within the Project Schedule.

VIII. PROJECT CLOSEOUT PROVISIONS.

A. Upon completion of the Project, the Awardee shall notify the Authority that the project is complete and shall certify, on a form provided by the Authority, that all work included in the Scope of Services has been completed and performed in accordance with this Agreement. The Awardee shall submit to the Authority a Project closeout package which shall include a summary of all Project expenditures and the final Project cost.

B. If the final Project cost is less than the Award, the difference between the Award and the final Project closeout cost will be calculated and defined as the Project "Shortage Amount". The existence of a Project Shortage Amount will not affect the Loan repayment amount or schedule.

8.A.

C. In the event that a Project Shortage Amount exists, the Authority shall either: (a) credit the Project Shortage Amount as part of Awardee's funding for an additional eligible project or future eligible project, or (b) send the Awardee a separate invoice for payment of the Project Shortage Amount forty-five (45) days prior to the next loan repayment date.

IX. PROJECT AUDIT PROVISIONS.

A. The Awardee, its engineers, and its contractors shall maintain books, records, and other documents that pertain to and involve transactions related to this Agreement in accordance with generally accepted accounting principals. The Awardee, its engineers, and its contractors shall also maintain the financial information and data used by the engineers and contractors in the preparation or support of all invoices and progress reports. The Authority and any other duly authorized person, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours, upon ten (10) days notice and at the Authority's expense. The Awardee, its engineers, and its contractors shall provide proper facilities for such access and inspection. All documents shall be kept for at least seven (7) years after either the final payment to the engineer or contractor or after the closeout of the Project, whichever is later.

B. The Awardee agrees to include the wording of Section IX.A., above, in all contracts and subcontracts hereafter awarded to third party contractors, vendors and service providers related to this Agreement.

C. Audits conducted by the Authority, or its duly authorized representatives, shall be in accordance with generally accepted government auditing standards and established procedures and guidelines of the Authority. Such audits shall be conducted at the expense of the Authority upon ten (10) days notice to the Awardee.

D. The Awardee agrees to provide the Authority with a copy of the Awardee's annual audited financial statements within a reasonable time after the issuance thereof, together with a certificate of the Awardee stating that the Awardee is in compliance with its obligations under this agreement.

X. INTERACTION WITH OTHER PROGRAMS OF ASSISTANCE.

The Awardee certifies that it has not and will not receive financial assistance under the State Revolving Fund (SRF) or any other state, federal, or other program of funding assistance for any Project costs for which financial assistance has been provided by the MWRA Local Water System Assistance Program.

XI. AUTHORITY TO EXECUTE AGREEMENT.

Prior to the execution of this Agreement, the Awardee shall take all steps necessary to authorize it to properly execute this Agreement.

XII. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

XIII. COMPLIANCE WITH LOCAL LAWS.

The Awardee shall comply with all applicable laws, ordinances, and codes of the state and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Agreement.

XIV. INVALIDITY OF PARTICULAR PROVISIONS.

If any provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be deemed affected thereby.

XV. CONTRACTING/SUBCONTRACTING.

The Awardee shall have no capacity to involve the Authority in any contract nor to incur any liability on the part of the Authority.

XVI. CHANGES TO SCOPE OF SERVICES.

The Authority and the Awardee may, during the course of the project, mutually agree to revisions in the Scope of Services or Project Schedule. Such changes shall be incorporated into this Agreement by written amendment.

XVII. PROVISION OF CONTRACTS.

The Awardee agrees to submit to the Authority an executed copy of each contract for engineering services or construction relevant to the Scope of Services.

XVIII. EQUAL EMPLOYMENT OPPORTUNITY.

The Awardee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap status or national origin. The Awardee, its engineer(s), and its contractor(s) shall comply with all applicable laws and regulations pertaining to nondiscrimination, equal opportunity and affirmative action, including without limitation executive orders and rules and regulations of federal and state agencies of competent jurisdiction. The Awardee shall make positive efforts to achieve a goal of 7.18 percent participation of Minority-owned Business Enterprise(s) and 5.77 percent participation of Woman-owned Business Enterprise(s) within Professional Services contracts which are funded through financial assistance under this Agreement. For Non-Professional Services category work, the Awardee should make positive efforts to achieve a goal of 5.61 percent participation of Minority-owned Business Enterprise(s) and a goal of 4.88 percent participation of Woman-owned Business Enterprise(s) within project contracts.

8.A.

For Construction, the Awardee shall require all construction contractors and subcontractors to make positive efforts to achieve: (1) a minority employee work force goal of 15.30 percent, (2) a woman employee work force goal of 6.90 percent, (3) a goal of 7.24 percent participation of Minority-owned Business Enterprise(s), and (4) a goal of 3.60 percent participation of Woman-owned Business Enterprise(s) within the project contracts.

XIX. INDEMNIFICATION.

The Awardee, at its expense, shall defend and shall indemnify and hold harmless the Authority, its members, officers and employees, from and against any and all claims, causes of action, suits, losses, damages and expenses, including attorneys' fees, arising out of or resulting from any acts, errors or omissions or breach of contractual duties by the Awardee and anyone employed by it (including Contractors, Subcontractors and/or Consultants and their employees) in performance of this Agreement. Such obligation shall not be construed to negate or abridge any other obligation of indemnification running to the Authority which would otherwise exist.

XX. MEMBERS, EMPLOYEES NOT LIABLE.

No member or employee of the Authority shall be charged personally or held contractually liable by or to the Awardee under any term or provision of this Agreement or because of any breach thereof or because of its execution or attempted execution.

XXI. INTEREST OF AWARDEE.

The Awardee covenants that its Contractors, Subcontractors and/or Consultants presently have no interest and shall not acquire any interest, direct or indirect, in the property to which this Agreement pertains or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Awardee further covenants that no person having any such interest shall be employed in the performance of this Agreement.

XXII. INTEREST OF EMPLOYEES; M.G.L.C. 268A.

Neither Awardee, nor its Contractors, Subcontractors and/or Consultants shall, during the term of this Agreement, hire or employ on either a full-time or part-time basis any person or persons so long as such person shall be employed by the Authority.

The Awardee acknowledges that the Authority is a state agency for the purposes of Chapter 268A of the Massachusetts General Laws (the Massachusetts Conflict of Interest statute). The Awardee agrees to take actions and to forbear from taking actions, as circumstances require, so as to be in compliance at all times with said statute.

XXIII. ASSIGNABILITY.

The Awardee shall not assign any interest, in whole or in part, in this Agreement and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the Authority.

XXIV. PAYMENT NOT A WAIVER.

The Authority's payment to Awardee under this Agreement or its review, approval or acceptance of any actions by Awardee under this Agreement shall not operate as a waiver of any rights under this Agreement and the Awardee shall remain liable to the Authority for all damages incurred by the Awardee's failure to perform in accordance with the terms and conditions of this Agreement.

The rights and remedies of the Authority provided for under this Agreement are in addition to any other rights or remedies provided by law. The Authority may assert a right to recover damages by any appropriate means, including but not limited to set-off, suit, withholding, recoupment, or counter-claim either during or after performance of this Agreement.

XXV. TERMINATION OF THE AGREEMENT FOR CAUSE.

If, through any cause, the Awardee shall fail to fulfill in a timely and proper manner its obligations under this Agreement (including performance of the Scope of Services and maintenance of the Project Schedule); or if it is determined that there is probable cause to believe that the Award was obtained on the basis of fraud, deceit, or illegality; or if the Awardee has failed to comply with the terms and conditions of this Agreement; the Authority shall hereupon have the right to terminate this Agreement by giving written notice to the Awardee of such termination and specifying the effective date thereof.

The Awardee agrees that if this Agreement is terminated by the Authority, the Awardee shall immediately repay to the Authority the full amount of any grant portion of the Award which is identified in Section II, above. The Awardee agrees that the Loan shall not be affected by such termination and that the separate Loan Agreement shall remain in full effect.

XXVI. ATTACHMENTS.

Attachments to this Agreement are incorporated herein and are as follows:

Attachment A Scope of Services
Attachment B Project Schedule
Attachment C Loan Agreement

XXVII. PROJECT SPECIFIC ADDITIONAL TERMS AND CONDITIONS.

1. The Awardee will submit to MWRA the Project's Plans and Specifications for review and approval.
2. The Awardee will submit to MWRA a copy of the project's executed construction contract, bid tabulation, and notice to proceed letter.
3. The Awardee will inform the MWRA of the date for Final Inspection for the construction phase of the proposed projects.

8.A.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2023.

MASSACHUSETTS WATER RESOURCES AUTHORITY

BY: _____
Matthew R. Horan, Treasurer

AWARDEE: Town of Brookline, Massachusetts

BY: _____
Charles Carey, Town Administrator

8.A.

MWRA LOCAL WATER SYSTEM ASSISTANCE PROGRAM FINANCIAL ASSISTANCE AGREEMENT

ATTACHMENT A

TOWN OF BROOKLINE, MASSACHUSETTS MWRA PROJECT NO. LWSAP23-196/376

SCOPE OF SERVICES

This project consists of procurement of water meters, construction, and engineering services related to replacing approximately 8,200 water meters throughout the Town of Brookline (both commercial and residential meters).

Meters purchased as part of this project: 5,151 meters of 5/8-inch, 1,151 meters of 3/4-inch, 1,105 meters of 1-inch, 489 meters of 1.5-inch, 201 meters of 2-inch, 41 meters of 3-inch, and 19 meters of 4-inch.

Total project cost is \$4,000,000. The water meter procurement (including hardware and software) has an estimated cost of \$1,752,920. Meter installation has an estimated cost of \$1,915,080. Engineering services have an estimated cost of \$332,000. Please note that during the water meter installation, water service material at each location will be documented.

ATTACHMENT B

TOWN OF BROOKLINE, MASSACHUSETTS MWRA PROJECT NO. LWSAP23-196/376

PROJECT SCHEDULE

<u>Item</u>	<u>Start Date</u>	<u>Completion Date</u>
Procurement		October 26, 2022
Bid		Spring 2023
Construction	Spring 2023	Fall 2024

LOAN AGREEMENT

LOAN AGREEMENT, dated the 27th day of February 2023 between the Massachusetts Water Resources Authority, a body politic and corporate, a public instrumentality and an independent public authority of The Commonwealth of Massachusetts (the "Authority") established by the Massachusetts Water Resources Authority Act, Chapter 372 of the Acts of 1984 of the Commonwealth of Massachusetts ("Commonwealth"), as amended (the "Act"), having its principal place of business in Boston, Massachusetts and the Town of Brookline (the "Government Unit").

WITNESSETH:

WHEREAS, the Authority has established a program of loans (the "Local Water System Assistance Program") to assist Local Bodies, as defined in the Act, in establishing programs to improve local water systems which will have a beneficial impact on maintaining and improving the regional water system; and

WHEREAS, the Government Unit has requested a loan from the Authority in the amount of \$4,000,000.00 (hereinafter referred to as the "Loan") for the purposes of funding its Local Water System Improvement Program and, to evidence the indebtedness to be incurred thereby, has duly authorized the issuance of its bonds in the principal amount of the Loan, (the "Municipal Bonds") which Municipal Bonds are to be issued to and held by the Authority in accordance with this Loan Agreement; and

WHEREAS, the Authority may finance the Loan from the proceeds of an issue of its tax-exempt revenue bonds which proceeds are subject to certain limitations as to investment and application;

NOW THEREFORE, the parties hereto agree as follows:

1. The Loan and the Municipal Bonds. The Authority hereby agrees to make the Loan and the Government Unit hereby agrees to accept the Loan to evidence its obligation to repay the Loan by issuing to the Authority the Municipal Bonds in the principal amount of the Loan, and substantially in the form attached hereto as Exhibit A. Neither the Loan nor the Municipal Bonds shall bear interest.

2. Representation and Warranties. The Government Unit represents and warrants as follows: (a) it has duly adopted all necessary votes and resolutions and has taken all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bonds to the Authority to evidence its obligation to pay the Loan; (b) The Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute valid and binding obligations of the Government Unit, enforceable in accordance with their terms, except as such enforceability may be

8.A.

limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and general equity principles; (c) the Municipal Bonds constitute a general obligation of the Government Unit to which its full faith and credit is pledged; (d) all permits and approvals necessary to construct the project being financed by the Loan (the "Project"), given the current status of the Project, have been obtained and remain in full force and effect; and (e) no litigation before or by any court, public board or body is pending or threatened against the Government Unit seeking to restrain or enjoin the issuance of the Municipal Bonds or the construction of the Project.

3. Covenants. The Government Unit agrees that until the Loan shall be paid in full, and the proceeds of the Loan, together with the earnings thereon, shall be expended in full, it shall perform the following covenants: (a) it shall make the payments with respect to the principal of the Municipal Bonds in ten equal annual installments, all at the time and in the amounts set forth in the Municipal Bonds; (b) it shall notify the Authority in writing, from time to time, of the name of the official of the Government Unit to whom invoices for the payment of principal should be addressed if different from the address set forth in paragraph 8; and (c) it shall furnish the Authority annually such information regarding the Government Unit's Local Water System Improvement Program and the implementation thereof, including project status and expenditure reports and evidence of compliance with any applicable permits and any other financial or project information as the Authority may reasonably request.

4. Opinion of Bond Counsel. Attached hereto as Exhibit B is an opinion of bond counsel or other local counsel to the Government Unit to the effect the (i) the Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute a valid and binding general obligations of the Government Unit, enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, and moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and to general equity principals, and (ii) the Municipal Bonds constitute a general obligation to which the Government Unit's full faith and credit is pledged.

5. Application of Loan Moneys. (a) The Authority shall deposit the amount of the Loan in single account (the "Account") separated from its other moneys. Such Account shall be invested with MMDT or in such other manner as may be approved by the Authority from time to time in the Authority's reasonable discretion. Earnings on the account shall be retained in such Account. The Government Unit shall arrange for copies of all investment reports with respect to the Account to be furnished in a timely fashion to the Authority.

(b) The Proceeds, together with the earnings thereon, shall be applied to the costs of the Government Unit's Local Water System Improvement Program.

(c) The Government Unit acknowledges that the Authority has financed the Loan with the issue of the Authority's tax-exempt revenue bonds (the "Authority Bonds"). The Government Unit agrees to take such steps as are reasonably requested by the Authority in order to preserve the tax-

8.A.

exempt status of the Authority Bonds including, but not limited to, the following: (i) to pay to the Authority such amount, not exceeding the Government Unit's investment earnings on the Proceeds, as may be required to satisfy the Authority's obligation to pay rebate to the United States pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"); (ii) to the extent feasible, to limit the investment of the Proceeds, together with any earnings thereon, to such interest rate or to such investments as the Authority may specify from time to time in writing; and (iii) to repay to the Authority the Proceeds upon its written request, together with any earnings thereon, in exchange for other moneys which are not subject to investment restrictions or which are subject to lesser restrictions.

(d) The Government Unit shall repay to the Authority the unexpended balance in any account established pursuant to Section 5(a) hereof on or before November 15, 2023 or thereafter shall invest such unexpended balance in accordance with the directions of the Authority in order to assure compliance with the applicable provisions of the Code.

6. Prepayment of Loan. The Authority shall have the right to cancel all or any part of its obligations hereunder and the Government Unit shall be obligated to repay all of the Proceeds previously disbursed to it which remain unexpended, together with any earnings on the Proceeds, upon the Authority's request if: (a) any representations made by the Government Unit to the Authority in connection with its application for Authority assistance shall be incorrect or incomplete in any material respect; or (b) the Government Unit is in (i) default of any of its obligations hereunder to make payments on the Municipal Bonds as and when the same shall become due and payable or (ii) in default of any other covenant or agreement on its part contained herein and such default shall continue for thirty (30) days after written notice from the Authority specifying the default and requesting that the same be remedied.

In addition to the foregoing provisions, the Government Unit may prepay the Loan upon thirty (30) days written notice to the Authority. Except as expressly provided herein, all prepayments shall be without penalty.

The Government Unit shall remain liable after any prepayment for the unpaid principal on the Municipal Bonds. Any prepayment shall be applied to the installments of principal due in inverse chronological order.

7. Tax Covenants. The Government Unit shall not take, or permit to be taken, any action or actions that would cause any of the Authority's Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code or a "private activity bond" within the meaning of Section 141(a) of the Code, or that would otherwise cause interest on the Authority Bonds to be included in gross income of the recipient thereof for the purpose of federal income taxation.

8. Any notices to be delivered under this Loan Agreement shall be effective upon receipt and shall be given by certified mail, return receipt requested to:

8.A.

As to the Authority:

Matthew R. Horan, Treasurer
Massachusetts Water Resources Authority
100 First Avenue, Charlestown Navy Yard
Boston, MA 02129

As to the Government Unit:

Lincoln D. Heineman, Finance Director
Town of Brookline, MA
333 Washington Street
Brookline, MA 02445

9. Severability. If any provisions of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of the Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

10. Counterparts. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

11. No Waiver. No waiver by either party of any term or conditions of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Loan Agreement.

12. Integration. This Loan Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between parties hereto in respect hereof.

8.A.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

(SEAL)

MASSACHUSETTS WATER RESOURCES AUTHORITY

Attest:

Rose Marie Convery, Assistant Secretary

By _____
Matthew R. Horan, Treasurer

(SEAL)

The Town of Brookline, Massachusetts

Attest:

Benjamin Kaufman, Town Clerk

By _____
Lincoln D. Heineman, Finance Director

(Please Note: The following statements are an essential part of the permanent bond record. Read them carefully before signing this certificate. Advise Locke Lord LLP of any inaccuracy.)

Town of Brookline, Massachusetts

\$4,000,000 Water Bond

CERTIFICATE

We, the members of the Select Board and the Treasurer of the Town of Brookline, Massachusetts, certify that we have signed the \$4,000,000 Water Bond (the “Bond”) of the Town dated February 27, 2023, and payable, without interest, in installments on February 15 of each year as set forth below:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
2024	\$400,000	2029	\$400,000
2025	400,000	2030	400,000
2026	400,000	2031	400,000
2027	400,000	2032	400,000
2028	400,000	2033	400,000

The Bond bears the Town seal, which is also affixed to this certificate.

We further certify that the Loan Agreement with the Massachusetts Water Resources Authority (the “Authority”) dated February 27, 2023 providing for the sale of the Bond has been signed by the Finance Director, and that the Financial Assistance Agreement dated February 27, 2023 relating to the Project financed by the Bond has been signed by the Town Administrator and we hereby confirm those Agreements. The Loan Agreement and the Financial Assistance Agreement are sometimes referred to collectively in this certificate as the “Agreements.” Capitalized terms used in this certificate and not otherwise defined shall have the same meanings given those terms in the Agreements.

We, the members of the Select Board and the Treasurer, also certify as follows:

1. Authority. The Bond is issued pursuant to the following statutes and votes of the Town:

- (a) \$2,000,000 - \$2,000,000 Water System Improvement Bonds under G.L. c.44, §8(5) and a vote of the Town passed May 19, 2021 (Article 9, Item 55); and

8.A.

- (b) \$2,000,000 - \$2,000,000 Water System Improvement Bonds under G.L. c.44, §8(5) and a vote of the Town passed May 31, 2022 (Article 8, Item 59).

The issuance of the Bond and the execution of the Agreements were further authorized by a vote of the Select Board passed at a duly called meeting of the Board held February 7, 2023 (the "Select Board Vote").

2. Other Debt. No other debt has been incurred under those votes of the Town.
3. Use of Project and Loan Proceeds.

(a) No Reimbursement. None of the proceeds of the Loan and the Bond are being used by the Town to reimburse the Town for expenditures previously made from funds other than proceeds of a borrowing.

(b) Prior Notes or Bonds. No proceeds of the Loan or the Bond will be used to pay or retire any notes, bonds or other evidence of indebtedness previously issued by the Town.

(c) No Sale of Project. The Town does not expect to sell any Project prior to repayment of the Loan and the Bond.

(d) Use in Trade or Business. Not more than 5% of the gross proceeds of the Loan or the Bond are to be used (directly or indirectly) in any trade or business carried on by any person other than a state or local governmental unit. (Use in a trade or business includes all activities carried on by the federal government (including its agencies and instrumentalities), by so-called Section 501(c)(3) organizations and by all other nongovernmental entities other than natural persons not engaged in a trade or business, but does not include use as a member of or on the same basis as the general public.) The Town does not have or plan to have any contract or other arrangement not applicable to the general public under which a party, other than the Commonwealth or a local governmental unit, agrees to take (or pay for) water from a particular source financed by the Loan or the Bond or is to have the use of the Project or is to make payments based on costs of the Project rather than system costs.

(e) Private Loans. None of the gross proceeds of the Loan or the Bond are to be used by the Town directly or indirectly to make or finance loans to others. (The foregoing representation does not preclude the financing of a Project whose costs are to be paid by betterment assessments over a period of years.)

I, the Treasurer, hereby certify that the delivery and receipt of the Bond was delivered on this date and the full purchase price of \$4,000,000 is expected to be received from the Authority on March 2, 2023.

We, the members of the Select Board, the Treasurer, and the Town Clerk, hereby certify as follows:

8.A.

(a) Authorization, Execution and Delivery of Documents. The Loan Agreement, the Financial Assistance Agreement and the Bond have been duly authorized, executed and delivered. None of those instruments has been amended or supplemented since its date (except such amendments or supplements which have been approved by the Authority) or repealed and each such instrument remains in full force and effect as of this date.

(b) Signatures and Incumbency. The signatures of the Treasurer and the members of the Select Board as appearing below are the genuine signatures of the persons who executed the Bond and who held those offices when the Agreements and the Bond were signed and when they were delivered.

(c) Open Meeting Law. Except for the town meetings called pursuant to G.L. c.39, §10, all proceedings essential to the issue of the Bond and the authorization, execution and delivery of the Agreements and deliberations of a quorum relating thereto have been taken at a meeting or meetings open to the public; notice of each such meeting was filed in the office of the Town Clerk and publicly posted in the time and manner set forth in the General Laws, as amended, in effect at the time of each such meeting (Chapter 39, §23B for proceedings occurring prior to July 1, 2010 and Chapter 30A, §§18-25 for proceedings occurring on or after July 1, 2010), or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b); no deliberations, decision or vote in connection with the Bond or the Agreements were taken in executive session and no vote was taken by secret ballot; and the official record of each such meeting was made available to the public and remains available to the public as set forth in G.L. c.39, §23B or c.30A, §§18-25, as amended.

(d) Proceedings. No proceeding essential to the authorization, execution, delivery or issue of the Agreements and the Bond has been repealed or amended except as stated in paragraph (1) above, and no proceedings have been taken relating to the Agreements and the Bond other than those certified to Locke Lord LLP.

(e) Bylaws. The bylaws described below are the only bylaws or standing votes of the Town affecting the authorization, sale or issue of the Bond, including the calling and conduct of town meetings, or the authorization, execution or delivery of the Agreements, and there has been no change therein affecting those matters in any way except as may be indicated below:

Town of Brookline By-Laws as certified to Locke Lord
LLP on January 25, 2022.

(f) Home Rule. The Town has not adopted a home rule charter and the Town has not amended or repealed any special law relating to the Town through the use of home rule procedures.

(g) Select Board Vote. Attached hereto is a true copy of the Select Board Vote, which has not been amended or repealed and remains in full force and effect on this date.

(h) Development Districts. The Town has not established any development districts pursuant to G.L. c.40Q.

8.A.

(i) Execution of Counterparts and Delivery by Electronic Means. This certificate (the “Certificate”) may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document. Delivery of an executed counterpart of a signature page to the Certificate by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to the Certificate. Electronic signatures on the Certificate shall be deemed original signatures for the purposes of the Certificate and all matters relating thereto, having the same legal effect as original signatures.

[Remainder of page intentionally left blank; signature page follows.]

8.A.

(j) No Litigation; No Financial Interest. There has been no litigation affecting the authorization, execution, delivery, validity or issue of the Agreements or the Bond or the power of the Town to levy and collect taxes to pay the Bond; none is pending or to our knowledge threatened; neither the corporate existence nor boundaries of the Town nor the title of any of us to our respective offices is being contested; and none of us and, to the best of our knowledge, no other official of the Town has any direct or indirect financial interest in or relationship with the Authority.

Dated: February 27, 2023
(date of delivery of and
payment for the Bond)

TOWN OF BROOKLINE,
MASSACHUSETTS

By: _____
Treasurer

Town Clerk

Members of the Select Board

(TOWN SEAL)

8.A.

\$4,000,000

\$4,000,000

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF BROOKLINE

WATER BOND

The Town of Brookline (hereinafter called the “Municipality”) in the County of Norfolk and in The Commonwealth of Massachusetts promises to pay to the Massachusetts Water Resources Authority (hereinafter called the “Authority”), or registered assigns, the sum of Four Million Dollars (\$4,000,000) in installments on February 15 of each year as set forth below, without interest:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
2024	\$400,000	2029	\$400,000
2025	400,000	2030	400,000
2026	400,000	2031	400,000
2027	400,000	2032	400,000
2028	400,000	2033	400,000

Principal payments on this bond are payable at the offices of the Authority at 100 First Avenue, Charlestown Navy Yard, Boston, Massachusetts 02129. Upon final payment of the principal of this bond the Authority shall cancel this bond and return it to the Municipality.

This bond is the only instrument representing a borrowing of \$4,000,000 issued by the Municipality pursuant to Chapter 44 of the General Laws as amended and votes of the Municipality duly passed on the nineteenth day of May, 2021 and the thirty-first day of May 2022. This bond is issued for the purpose of defraying the cost of improvements to the Municipality’s water system as described in said votes.

This bond is a general obligation of the Municipality and the full faith and credit of the Municipality is pledged for the payment of principal on this bond as the same shall become due and payable.

This bond is transferable only upon presentation to the Treasurer of the Municipality with a written assignment duly acknowledged or proved. No transfer hereof shall be effectual unless made on the books of the Municipality kept by the Treasurer as transfer agent and noted thereon by the Treasurer with a record of payments.

8.A.

In Witness Whereof the Municipality has caused this bond to be signed by its Treasurer and countersigned by its Select Board and the seal of the Municipality to be affixed hereto as of the thirteenth day of February, 2023.

TOWN OF BROOKLINE,
MASSACHUSETTS

By: _____
Treasurer

Countersigned:

Members of the Select Board

(TOWN SEAL)

VOTE OF THE SELECT BOARD

I, the Clerk of the Select Board of the Town of Brookline, Massachusetts, certify that at a meeting of the board held February 7, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: that the sale of the \$4,000,000 Water Bond of the Town dated February 27, 2023, to Massachusetts Water Resources Authority (the "Authority") is hereby approved and the Town Treasurer or other appropriate Town official is authorized to execute on behalf of the Town a Loan Agreement and a Financial Assistance Agreement with the Authority with respect to the bond. The bond shall be payable without interest on February 15 of the years and in the principal amounts as follows:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
2024	\$400,000	2029	\$400,000
2025	400,000	2030	400,000
2026	400,000	2031	400,000
2027	400,000	2032	400,000
2028	400,000	2033	400,000

Further Voted: that each member of the Select Board, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing vote.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the bond were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Dated: February 14, 2023

Clerk of the Select Board

8.A.

FINANCIAL ASSISTANCE AGREEMENT

BY AND BETWEEN

MASSACHUSETTS WATER RESOURCES AUTHORITY

AND

BROOKLINE, MASSACHUSETTS

This Financial Assistance Agreement is made by and between the Massachusetts Water Resources Authority, a body politic and corporate and public instrumentality, established under the provisions of Chapter 372 of the Acts of 1984, with its principal place of business at 100 First Avenue Charlestown, MA 02129, ("Authority" or "MWRA") and Brookline, MA, a municipal corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business at 333 Washington Street Brookline, MA 02445 ("Awardee") (collectively, "Parties");

WHEREAS, on June 30, 2010 the Authority Board of Directors voted to approve a program whereby the Authority was permitted to offer financial assistance to Waterworks system communities to improve local water systems.

WHEREAS, the Awardee intends to conduct, or is conducting, a local water system improvement project ("Project"); and

WHEREAS, the Awardee filed a Financial Assistance Application in which it furnished information about the Project to the Authority; and

WHEREAS, the MWRA will provide financial assistance to the Awardee for its Project under certain terms and conditions, hereinafter provided.

NOW THEREFORE, in consideration of the foregoing and the promises contained herein, the Parties agree that the Authority will provide and the Awardee will accept financial assistance under the following terms and conditions:

I. SCOPE OF SERVICES.

The Awardee has entered into or will enter into, within ninety (90) days of the execution of this Agreement, a contract with a consultant or contractor for local water system improvement, in accordance with the Awardee's competitive procurement practice, and the scope of such work is listed in Attachment A.

8.A.

II. FINANCIAL ASSISTANCE.

A. The Authority shall provide financial assistance ("Award") to the Awardee in the form of an interest-free loan. The total amount of the Award shall be \$4,000,000.00.

B. The Loan shall be governed by the attached Loan Agreement, which is incorporated herein by reference as Attachment C.

C. Upon execution of the Loan Agreement, the Authority shall initiate an electronic transfer of the total Award through the Automated Clearing House (ACH) having a pay date three business days after the execution date to the following designated account of the Awardee:

MMDT Account No. 4318740

Federal Tax ID No. 04-600-1102

D. The Authority shall not be obligated to provide additional financial assistance above the Award amount regardless of additional Project costs which may be incurred by the Awardee.

III. EFFECTIVE DATE OF AGREEMENT.

This Agreement will take effect on the date of execution of both the Loan Agreement and this Agreement. In the event that this Agreement and the Loan Agreement are executed on different dates, the effective date of this Agreement shall be the later of the two dates.

IV. TERM.

The term of this Agreement shall begin upon the date of execution of this Agreement, including the execution of the Loan Agreement, and; unless otherwise terminated under Section XXV of this Agreement, shall be in effect until the Awardee fully repays the Loan to the Authority in accordance with the terms of the Loan Agreement. As evidence that the final payment has been made, the Authority will send notice to the Awardee indicating that the Loan has been discharged.

V. PROJECT SCHEDULE.

Implementation of the Project must begin within ninety (90) calendar days of execution of the Agreement, including the Loan Agreement. The Project must comply with the Project Schedule listed in Attachment B.

It is the obligation of the Awardee to obtain all licenses, permits, easements or any other approvals necessary to begin and successfully complete the Project.

VI. EXPENDITURE VERIFICATION REQUIREMENTS.

A. Throughout the completion of the Project Scope of Services, the Awardee shall submit progress reports to the Authority, on forms provided by the Authority, which outline the overall progress of the Project, the progress of key Project tasks, and the total Project cost expended to date. The frequency and schedule for progress reporting is outlined within Section 5.1 of MWRA Local Water System Assistance Program Guidelines. Progress reports shall be submitted to:

Massachusetts Water Resources Authority
Charlestown Navy Yard
100 First Avenue
Boston, MA 02129
Attn: Local Water System Assistance Program

B. The Awardee shall append to each progress report information which documents eligible Project costs, including, but not limited to, consultant and/or contractor invoices; awardee labor, equipment, materials and other costs; and ancillary expenses. Time sheets and work summaries documenting any requests for force account work reimbursement must also be provided.

C. The Awardee shall exercise its best efforts to accomplish the Project set forth in the Scope of Services within the Award Amount established. In the event that an increase or decrease in the total Project cost is anticipated, or in fact occurs, the Awardee shall immediately notify the Authority in writing, and shall submit a status report including reasons for changes in Project cost, work completed to date, total dollars expended to date, and an estimate of the cost required to complete the Project.

VII. PROJECT INSPECTION.

The Awardee shall make the Project site and all Project records available to the Authority staff for review during the course of the Project. Authority staff may periodically monitor the progress of work to insure that the Project is: (1) proceeding substantially as defined in the Scope of Services; and (2) proceeding substantially within the Project Schedule.

VIII. PROJECT CLOSEOUT PROVISIONS.

A. Upon completion of the Project, the Awardee shall notify the Authority that the project is complete and shall certify, on a form provided by the Authority, that all work included in the Scope of Services has been completed and performed in accordance with this Agreement. The Awardee shall submit to the Authority a Project closeout package which shall include a summary of all Project expenditures and the final Project cost.

B. If the final Project cost is less than the Award, the difference between the Award and the final Project closeout cost will be calculated and defined as the Project "Shortage Amount". The existence of a Project Shortage Amount will not affect the Loan repayment amount or schedule.

8.A.

C. In the event that a Project Shortage Amount exists, the Authority shall either: (a) credit the Project Shortage Amount as part of Awardee's funding for an additional eligible project or future eligible project, or (b) send the Awardee a separate invoice for payment of the Project Shortage Amount forty-five (45) days prior to the next loan repayment date.

IX. PROJECT AUDIT PROVISIONS.

A. The Awardee, its engineers, and its contractors shall maintain books, records, and other documents that pertain to and involve transactions related to this Agreement in accordance with generally accepted accounting principals. The Awardee, its engineers, and its contractors shall also maintain the financial information and data used by the engineers and contractors in the preparation or support of all invoices and progress reports. The Authority and any other duly authorized person, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours, upon ten (10) days notice and at the Authority's expense. The Awardee, its engineers, and its contractors shall provide proper facilities for such access and inspection. All documents shall be kept for at least seven (7) years after either the final payment to the engineer or contractor or after the closeout of the Project, whichever is later.

B. The Awardee agrees to include the wording of Section IX.A., above, in all contracts and subcontracts hereafter awarded to third party contractors, vendors and service providers related to this Agreement.

C. Audits conducted by the Authority, or its duly authorized representatives, shall be in accordance with generally accepted government auditing standards and established procedures and guidelines of the Authority. Such audits shall be conducted at the expense of the Authority upon ten (10) days notice to the Awardee.

D. The Awardee agrees to provide the Authority with a copy of the Awardee's annual audited financial statements within a reasonable time after the issuance thereof, together with a certificate of the Awardee stating that the Awardee is in compliance with its obligations under this agreement.

X. INTERACTION WITH OTHER PROGRAMS OF ASSISTANCE.

The Awardee certifies that it has not and will not receive financial assistance under the State Revolving Fund (SRF) or any other state, federal, or other program of funding assistance for any Project costs for which financial assistance has been provided by the MWRA Local Water System Assistance Program.

XI. AUTHORITY TO EXECUTE AGREEMENT.

Prior to the execution of this Agreement, the Awardee shall take all steps necessary to authorize it to properly execute this Agreement.

XII. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

XIII. COMPLIANCE WITH LOCAL LAWS.

The Awardee shall comply with all applicable laws, ordinances, and codes of the state and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Agreement.

XIV. INVALIDITY OF PARTICULAR PROVISIONS.

If any provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be deemed affected thereby.

XV. CONTRACTING/SUBCONTRACTING.

The Awardee shall have no capacity to involve the Authority in any contract nor to incur any liability on the part of the Authority.

XVI. CHANGES TO SCOPE OF SERVICES.

The Authority and the Awardee may, during the course of the project, mutually agree to revisions in the Scope of Services or Project Schedule. Such changes shall be incorporated into this Agreement by written amendment.

XVII. PROVISION OF CONTRACTS.

The Awardee agrees to submit to the Authority an executed copy of each contract for engineering services or construction relevant to the Scope of Services.

XVIII. EQUAL EMPLOYMENT OPPORTUNITY.

The Awardee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap status or national origin. The Awardee, its engineer(s), and its contractor(s) shall comply with all applicable laws and regulations pertaining to nondiscrimination, equal opportunity and affirmative action, including without limitation executive orders and rules and regulations of federal and state agencies of competent jurisdiction. The Awardee shall make positive efforts to achieve a goal of 7.18 percent participation of Minority-owned Business Enterprise(s) and 5.77 percent participation of Woman-owned Business Enterprise(s) within Professional Services contracts which are funded through financial assistance under this Agreement. For Non-Professional Services category work, the Awardee should make positive efforts to achieve a goal of 5.61 percent participation of Minority-owned Business Enterprise(s) and a goal of 4.88 percent participation of Woman-owned Business Enterprise(s) within project contracts.

8.A.

For Construction, the Awardee shall require all construction contractors and subcontractors to make positive efforts to achieve: (1) a minority employee work force goal of 15.30 percent, (2) a woman employee work force goal of 6.90 percent, (3) a goal of 7.24 percent participation of Minority-owned Business Enterprise(s), and (4) a goal of 3.60 percent participation of Woman-owned Business Enterprise(s) within the project contracts.

XIX. INDEMNIFICATION.

The Awardee, at its expense, shall defend and shall indemnify and hold harmless the Authority, its members, officers and employees, from and against any and all claims, causes of action, suits, losses, damages and expenses, including attorneys' fees, arising out of or resulting from any acts, errors or omissions or breach of contractual duties by the Awardee and anyone employed by it (including Contractors, Subcontractors and/or Consultants and their employees) in performance of this Agreement. Such obligation shall not be construed to negate or abridge any other obligation of indemnification running to the Authority which would otherwise exist.

XX. MEMBERS, EMPLOYEES NOT LIABLE.

No member or employee of the Authority shall be charged personally or held contractually liable by or to the Awardee under any term or provision of this Agreement or because of any breach thereof or because of its execution or attempted execution.

XXI. INTEREST OF AWARDEE.

The Awardee covenants that its Contractors, Subcontractors and/or Consultants presently have no interest and shall not acquire any interest, direct or indirect, in the property to which this Agreement pertains or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Awardee further covenants that no person having any such interest shall be employed in the performance of this Agreement.

XXII. INTEREST OF EMPLOYEES; M.G.L.C. 268A.

Neither Awardee, nor its Contractors, Subcontractors and/or Consultants shall, during the term of this Agreement, hire or employ on either a full-time or part-time basis any person or persons so long as such person shall be employed by the Authority.

The Awardee acknowledges that the Authority is a state agency for the purposes of Chapter 268A of the Massachusetts General Laws (the Massachusetts Conflict of Interest statute). The Awardee agrees to take actions and to forbear from taking actions, as circumstances require, so as to be in compliance at all times with said statute.

XXIII. ASSIGNABILITY.

The Awardee shall not assign any interest, in whole or in part, in this Agreement and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of the Authority.

XXIV. PAYMENT NOT A WAIVER.

The Authority's payment to Awardee under this Agreement or its review, approval or acceptance of any actions by Awardee under this Agreement shall not operate as a waiver of any rights under this Agreement and the Awardee shall remain liable to the Authority for all damages incurred by the Awardee's failure to perform in accordance with the terms and conditions of this Agreement.

The rights and remedies of the Authority provided for under this Agreement are in addition to any other rights or remedies provided by law. The Authority may assert a right to recover damages by any appropriate means, including but not limited to set-off, suit, withholding, recoupment, or counter-claim either during or after performance of this Agreement.

XXV. TERMINATION OF THE AGREEMENT FOR CAUSE.

If, through any cause, the Awardee shall fail to fulfill in a timely and proper manner its obligations under this Agreement (including performance of the Scope of Services and maintenance of the Project Schedule); or if it is determined that there is probable cause to believe that the Award was obtained on the basis of fraud, deceit, or illegality; or if the Awardee has failed to comply with the terms and conditions of this Agreement; the Authority shall hereupon have the right to terminate this Agreement by giving written notice to the Awardee of such termination and specifying the effective date thereof.

The Awardee agrees that if this Agreement is terminated by the Authority, the Awardee shall immediately repay to the Authority the full amount of any grant portion of the Award which is identified in Section II, above. The Awardee agrees that the Loan shall not be affected by such termination and that the separate Loan Agreement shall remain in full effect.

XXVI. ATTACHMENTS.

Attachments to this Agreement are incorporated herein and are as follows:

Attachment A Scope of Services
Attachment B Project Schedule
Attachment C Loan Agreement

XXVII. PROJECT SPECIFIC ADDITIONAL TERMS AND CONDITIONS.

1. The Awardee will submit to MWRA the Project's Plans and Specifications for review and approval.
2. The Awardee will submit to MWRA a copy of the project's executed construction contract, bid tabulation, and notice to proceed letter.
3. The Awardee will inform the MWRA of the date for Final Inspection for the construction phase of the proposed projects.

8.A.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2023.

MASSACHUSETTS WATER RESOURCES AUTHORITY

BY: _____
Matthew R. Horan, Treasurer

AWARDEE: Town of Brookline, Massachusetts

BY: _____
Charles Carey, Town Administrator

8.A.

MWRA LOCAL WATER SYSTEM ASSISTANCE PROGRAM FINANCIAL ASSISTANCE AGREEMENT

ATTACHMENT A

TOWN OF BROOKLINE, MASSACHUSETTS MWRA PROJECT NO. LWSAP23-196/376

SCOPE OF SERVICES

This project consists of procurement of water meters, construction, and engineering services related to replacing approximately 8,200 water meters throughout the Town of Brookline (both commercial and residential meters).

Meters purchased as part of this project: 5,151 meters of 5/8-inch, 1,151 meters of 3/4-inch, 1,105 meters of 1-inch, 489 meters of 1.5-inch, 201 meters of 2-inch, 41 meters of 3-inch, and 19 meters of 4-inch.

Total project cost is \$4,000,000. The water meter procurement (including hardware and software) has an estimated cost of \$1,752,920. Meter installation has an estimated cost of \$1,915,080. Engineering services have an estimated cost of \$332,000. Please note that during the water meter installation, water service material at each location will be documented.

ATTACHMENT B

TOWN OF BROOKLINE, MASSACHUSETTS MWRA PROJECT NO. LWSAP23-196/376

PROJECT SCHEDULE

<u>Item</u>	<u>Start Date</u>	<u>Completion Date</u>
Procurement		October 26, 2022
Bid		Spring 2023
Construction	Spring 2023	Fall 2024

LOAN AGREEMENT

LOAN AGREEMENT, dated the 27th day of February 2023 between the Massachusetts Water Resources Authority, a body politic and corporate, a public instrumentality and an independent public authority of The Commonwealth of Massachusetts (the "Authority") established by the Massachusetts Water Resources Authority Act, Chapter 372 of the Acts of 1984 of the Commonwealth of Massachusetts ("Commonwealth"), as amended (the "Act"), having its principal place of business in Boston, Massachusetts and the Town of Brookline (the "Government Unit").

WITNESSETH:

WHEREAS, the Authority has established a program of loans (the "Local Water System Assistance Program") to assist Local Bodies, as defined in the Act, in establishing programs to improve local water systems which will have a beneficial impact on maintaining and improving the regional water system; and

WHEREAS, the Government Unit has requested a loan from the Authority in the amount of \$4,000,000.00 (hereinafter referred to as the "Loan") for the purposes of funding its Local Water System Improvement Program and, to evidence the indebtedness to be incurred thereby, has duly authorized the issuance of its bonds in the principal amount of the Loan, (the "Municipal Bonds") which Municipal Bonds are to be issued to and held by the Authority in accordance with this Loan Agreement; and

WHEREAS, the Authority may finance the Loan from the proceeds of an issue of its tax-exempt revenue bonds which proceeds are subject to certain limitations as to investment and application;

NOW THEREFORE, the parties hereto agree as follows:

1. The Loan and the Municipal Bonds. The Authority hereby agrees to make the Loan and the Government Unit hereby agrees to accept the Loan to evidence its obligation to repay the Loan by issuing to the Authority the Municipal Bonds in the principal amount of the Loan, and substantially in the form attached hereto as Exhibit A. Neither the Loan nor the Municipal Bonds shall bear interest.

2. Representation and Warranties. The Government Unit represents and warrants as follows: (a) it has duly adopted all necessary votes and resolutions and has taken all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bonds to the Authority to evidence its obligation to pay the Loan; (b) The Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute valid and binding obligations of the Government Unit, enforceable in accordance with their terms, except as such enforceability may be

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limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and general equity principles; (c) the Municipal Bonds constitute a general obligation of the Government Unit to which its full faith and credit is pledged; (d) all permits and approvals necessary to construct the project being financed by the Loan (the "Project"), given the current status of the Project, have been obtained and remain in full force and effect; and (e) no litigation before or by any court, public board or body is pending or threatened against the Government Unit seeking to restrain or enjoin the issuance of the Municipal Bonds or the construction of the Project.

3. Covenants. The Government Unit agrees that until the Loan shall be paid in full, and the proceeds of the Loan, together with the earnings thereon, shall be expended in full, it shall perform the following covenants: (a) it shall make the payments with respect to the principal of the Municipal Bonds in ten equal annual installments, all at the time and in the amounts set forth in the Municipal Bonds; (b) it shall notify the Authority in writing, from time to time, of the name of the official of the Government Unit to whom invoices for the payment of principal should be addressed if different from the address set forth in paragraph 8; and (c) it shall furnish the Authority annually such information regarding the Government Unit's Local Water System Improvement Program and the implementation thereof, including project status and expenditure reports and evidence of compliance with any applicable permits and any other financial or project information as the Authority may reasonably request.

4. Opinion of Bond Counsel. Attached hereto as Exhibit B is an opinion of bond counsel or other local counsel to the Government Unit to the effect the (i) the Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute a valid and binding general obligations of the Government Unit, enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, and moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and to general equity principals, and (ii) the Municipal Bonds constitute a general obligation to which the Government Unit's full faith and credit is pledged.

5. Application of Loan Moneys. (a) The Authority shall deposit the amount of the Loan in single account (the "Account") separated from its other moneys. Such Account shall be invested with MMDT or in such other manner as may be approved by the Authority from time to time in the Authority's reasonable discretion. Earnings on the account shall be retained in such Account. The Government Unit shall arrange for copies of all investment reports with respect to the Account to be furnished in a timely fashion to the Authority.

(b) The Proceeds, together with the earnings thereon, shall be applied to the costs of the Government Unit's Local Water System Improvement Program.

(c) The Government Unit acknowledges that the Authority has financed the Loan with the issue of the Authority's tax-exempt revenue bonds (the "Authority Bonds"). The Government Unit agrees to take such steps as are reasonably requested by the Authority in order to preserve the tax-

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exempt status of the Authority Bonds including, but not limited to, the following: (i) to pay to the Authority such amount, not exceeding the Government Unit's investment earnings on the Proceeds, as may be required to satisfy the Authority's obligation to pay rebate to the United States pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"); (ii) to the extent feasible, to limit the investment of the Proceeds, together with any earnings thereon, to such interest rate or to such investments as the Authority may specify from time to time in writing; and (iii) to repay to the Authority the Proceeds upon its written request, together with any earnings thereon, in exchange for other moneys which are not subject to investment restrictions or which are subject to lesser restrictions.

(d) The Government Unit shall repay to the Authority the unexpended balance in any account established pursuant to Section 5(a) hereof on or before November 15, 2023 or thereafter shall invest such unexpended balance in accordance with the directions of the Authority in order to assure compliance with the applicable provisions of the Code.

6. Prepayment of Loan. The Authority shall have the right to cancel all or any part of its obligations hereunder and the Government Unit shall be obligated to repay all of the Proceeds previously disbursed to it which remain unexpended, together with any earnings on the Proceeds, upon the Authority's request if: (a) any representations made by the Government Unit to the Authority in connection with its application for Authority assistance shall be incorrect or incomplete in any material respect; or (b) the Government Unit is in (i) default of any of its obligations hereunder to make payments on the Municipal Bonds as and when the same shall become due and payable or (ii) in default of any other covenant or agreement on its part contained herein and such default shall continue for thirty (30) days after written notice from the Authority specifying the default and requesting that the same be remedied.

In addition to the foregoing provisions, the Government Unit may prepay the Loan upon thirty (30) days written notice to the Authority. Except as expressly provided herein, all prepayments shall be without penalty.

The Government Unit shall remain liable after any prepayment for the unpaid principal on the Municipal Bonds. Any prepayment shall be applied to the installments of principal due in inverse chronological order.

7. Tax Covenants. The Government Unit shall not take, or permit to be taken, any action or actions that would cause any of the Authority's Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code or a "private activity bond" within the meaning of Section 141(a) of the Code, or that would otherwise cause interest on the Authority Bonds to be included in gross income of the recipient thereof for the purpose of federal income taxation.

8. Any notices to be delivered under this Loan Agreement shall be effective upon receipt and shall be given by certified mail, return receipt requested to:

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As to the Authority:

Matthew R. Horan, Treasurer
Massachusetts Water Resources Authority
100 First Avenue, Charlestown Navy Yard
Boston, MA 02129

As to the Government Unit:

Lincoln D. Heineman, Finance Director
Town of Brookline, MA
333 Washington Street
Brookline, MA 02445

9. Severability. If any provisions of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of the Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

10. Counterparts. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

11. No Waiver. No waiver by either party of any term or conditions of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Loan Agreement.

12. Integration. This Loan Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between parties hereto in respect hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

(SEAL)

MASSACHUSETTS WATER RESOURCES AUTHORITY

Attest:

Rose Marie Convery, Assistant Secretary

By _____
Matthew R. Horan, Treasurer

(SEAL)

The Town of Brookline, Massachusetts

Attest:

Benjamin Kaufman, Town Clerk

By _____
Lincoln D. Heineman, Finance Director

RULES AND BYLAWS OF THE BROOKLINE LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)

ARTICLE I

NAME AND PURPOSE

Section 1. Name. The name of this organization shall be the Brookline Local Emergency Planning Committee, hereinafter referred to as the “LEPC”.

Section 2. Purpose. The purpose of the LEPC are those set out in SARA Title III/EPCRA and any other lawful purposes which are assigned to it or permitted by the State Emergency Response Commission (SERC) in Massachusetts. In keeping with the intent of the SARA Title III/EPCRA regulations, all activities of the Committee will be conducted in a manner encouraging input and participation from all segments of the community. The LEPC will develop a hazardous chemical substances emergency response and preparedness plan (HazMat ERP) for the community and establish procedures for conducting its public information and education responsibilities. The HazMat ERP shall be reviewed and updated as necessary on a regular annual basis, in accordance with Section 303 of SARA Title III.

The LEPC shall, in addition:

- A. Receive and process requests for information from the public.
- B. Notify the public of all LEPC meetings or activities.
- C. With the information and reports from facilities operating within the jurisdiction of the LEPC, and analysis of the Town’s transportation risks, the LEPC will perform a hazardous chemical substances analysis.
- D. Establish and maintain a database of hazardous chemical substance locations and quantities in the Town.
- E. Establish and maintain a system of data management.
- F. Maintain information on ALL facilities that manufacture, or store, Extremely Hazardous Substances (EHS), and include this information within the HazMat ERP.

The LEPC will establish, and notify the public that all meetings, including sub-committee and ad hoc committee meetings, are open to the public. The LEPC will implement such other and related activities as may hereafter be legally required by the federal government, the SERC, or Town By-laws. The LEPC will make assessments of resources necessary to implement the HazMat ERP, and make recommendations to appropriate people, agencies, and organizations regarding additional resources needed to implement the HazMat ERP. The LEPC shall be instrumental in fulfilling the purpose of the Community Right-to-Know laws to increase the protection of the community from exposure to chemicals produced, used, stored, and/or transported within the Town. Transportation hazards analysis will include those risks to the community from commercial transportation by highway.

ARTICLE II**MEMBERSHIP**

Membership will include, at a minimum, representatives of the groups listed in Section 301 of SARA Title III. This includes equal representation of elected state and local officials, law enforcement, emergency management, firefighting personnel, first aid/EMS personnel, health personnel, local environmental personnel, hospital personnel, transportation personnel, broadcast and print media personnel, community groups and owners or operators of local facilities. The members will be nominated to, and approved by the Select Board. Membership updates will be provided by the LEPC to the Select Board on an annual basis or whenever there is a change in membership.

Section 1. Qualification. The organization shall consist of those members nominated to, and approved by the Select Board for membership in this body. Those persons named shall represent the various professional and community groups as designated by EPCRA. Members of the LEPC shall be residents or conduct business in the jurisdictional area of the LEPC.

Section 2. Officers. Officers shall be elected to conduct meetings, appoint subcommittees, keep minutes, and to otherwise accomplish the work of the committee.

Section 3. Terms of Office. The membership of the LEPC, once established, will be for a period of 3 year(s). Members may be selected to succeed themselves or to move to other positions on the LEPC. No term limits are established for this jurisdiction. The term of office shall be provided in Article II, Section 3.

Section 4. Inactive Members. Appointed members shall be considered inactive when they have missed more than 2 consecutive Committee meetings without notification to the Committee Chair or Coordinator of significant reasons why they were unable to attend meetings. The annual report listing members declared inactive will be provided to the LEPC membership by the Coordinator.

Section 5. Vacancies. Any vacancy occurring in the LEPC by reason of the resignation, death or disqualification of a member will be filled by appointment in accordance with Article II, Section 1. The Executive Committee may make suggestions for candidates to fill vacant positions to the LEPC Chair who will make the recommendation to the Select Board for approval.

Section 6. Duties. The LEPC shall assist established emergency planning offices within the Town with planning emergency response and public information as directed by laws.

Section 7. Meetings. The LEPC shall meet at least annually. The Chairperson may call special meetings of the LEPC at such time and place as the Chairperson may determine. The Chairperson must call a special meeting of the LEPC upon the written request of 5 members. The special committees shall meet as the work under their groupings proceeds.

Section 8. Quorum. The presence of 65% percent of the members of the LEPC at the opening of the meeting shall constitute a quorum for the transaction of business by the LEPC. For the purposes of Standing Committee meetings, the presence of 3 members shall constitute a quorum for the transaction of business.

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Section 9. Agenda. Any member may request that the Chairperson place an item on the meeting agenda. If the chairperson should decline to do so, a member may have such item placed on the agenda by submitting it in writing to the Chairperson with support signatures of 5 members of the Committee.

Section 10. Rules of Order. The deliberations of all meetings of the LEPC and its subcommittees shall be governed by Robert's Rules of Order, Newly Revised.

Section 11. Notice of Meetings. An annual notice of the regular meeting schedule of the LEPC shall be published in a newspaper with regular circulation in Norfolk County in accordance with SARA Title III (EPCRA) and posted on the Town website and at Town Hall. This notice shall specify the meeting designated specifically for the receipt of public comments on the emergency plan.

ARTICLE III

OFFICERS

The Officers of the LEPC shall be a Chairperson, and a Coordinator. All officers shall be members of the LEPC.

Section 1. Chairperson. The Chairperson shall preside at all meetings of the LEPC; shall serve as ex officio member of all committees; and shall perform such duties and acts as necessary to accomplish the goals of the LEPC. The Chairperson shall be empowered to create such other ad hoc committees as necessary to accomplish the goals of the LEPC.

Section 2. Coordinator. The Coordinator shall be the custodian of all books, papers, documents and other property of the LEPC. The Coordinator shall keep a true record of the proceedings of all meetings of the LEPC. Additionally, the Coordinator shall attend to the business needs of the LEPC and shall maintain an accurate record of all monies received and expended for the use of the LEPC. The Coordinator shall process requests from the public for information under Section 324 (Right-to-Know), including Tier II information under Section 312. The Coordinator shall be a non-voting member of all committees and the LEPC.

ARTICLE IV

COMMITTEES

Section 1. Executive Committee. The Executive Committee will consist of the Chairperson, Coordinator, and Chairpersons of the four standing committees as described in Section 2. The Coordinator shall serve as a non-voting member of this committee. The duties of the Executive Committee shall be to coordinate activities of the Standing and Ad-Hoc Committees.

Section 2. Standing Committees. The following Standing Committees shall be established:

- A. **Right-to-Know Committee.** This Committee shall be responsible for the formulation of all policies and procedures concerning the public's right-to-know program; the formulation of all chemical release reporting procedures; the establishment of confidential information protection

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procedures; and the formulation of all record keeping and information dissemination procedures for the LEPC.

- B. **Public Education and Information Committee.** This Committee shall be responsible for reviewing the public alert and notification program; public relations with affected communities and public at large; all publicity of the LEPC; development of public education and information programs.
- C. **Hazardous Materials Facilities Liaison Committee.** This Committee shall be responsible for procedures for identification and communication with affected facilities. This Committee shall work with the Emergency Response and Resources Committee and with affected facilities to review and help the Brookline Office of Emergency Management test a HazMat ERP for the Town as required by law.
- D. **Emergency Response and Resources Committee.** This Committee will work with the Hazardous Facilities Liaison Committee and with existing emergency response organizations within the planning district to review and help the Brookline Office of Emergency Management test a HazMat ERP for the jurisdiction as required by law. This Committee shall review existing federal, state and local plans for the purpose of coordination with the LEPC planning process.

Section 3. Meetings. Meetings of the Standing and Ad Hoc Committees may be called by the Chairperson of the LEPC or the Chairperson of the Committee as deemed necessary.

Section 4. Chairperson of the Standing Committees. The Chairperson of the Standing Committees shall be nominated and elected by their respective Committees by a vote of the members.

Section 5. Membership of Standing Committees. All members must volunteer to serve on at least one Standing Committee and shall not serve on more than two Standing Committees. Final membership of the Standing Committees shall be determined by the Chairperson after consultation with the Executive Committee to ensure that all Committees have sufficient representation to carry out their assigned tasks.

Section 6. Ad Hoc Committees. The Chairperson may create Ad Hoc Committees as necessary to perform the functions of the LEPC. Chairpersons of Ad Hoc Committees shall be appointed by the Chairperson of the LEPC.

ARTICLE V:

MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year shall be considered to run from July 1 to June 30.

Section 2. Indebtedness. All indebtedness incurred by the LEPC shall be approved by the Chairperson before payment by the Coordinator.

Section 3. Approval of By-Laws. These by-laws shall become effective upon approval by a majority of those in attendance at the organization meeting.

Section 4. Disqualification. Any member who is unable to attend a meeting of the LEPC must notify the Coordinator. Any member with _3_ or more absences is subject to disqualification at the request of the LEPC Chairperson.

ARTICLE VI

AMENDMENTS

Section 1. Amendments. These by-laws may be amended by a two-thirds vote of members present and voting at any meeting of the LEPC provided that any amendments to these by-laws be submitted to the members in writing at least one week in advance of the meeting. Any member of the LEPC shall have the right to comment on, or suggest revision to the by-laws.

ARTICLE VII

RULES

EPCRA requires that the LEPC “shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan.” The final rules are attached to these by-laws.

Section 1. Adoption of Rule; Publication of Proposals. The LEPC may, as necessary and proper, adopt rules of general application governing the execution of responsibilities under EPCRA and related applicable regulations. Such rules must first be published in proposed form not less than 10 days prior to final adoption by the LEPC. Proposed rules are subject to public comment during the 10-day period. The LEPC Coordinator is encouraged, but not required, to mail notices of the proposed rule-making to interested local government officials, industries, and citizens.

Section 2. Method of Initiating proposed Rule-Making. Any member of the LEPC may recommend the initiation of proposed rule-making. Any proposed rules shall initially be considered by the Executive Committee, unless otherwise decided by the LEPC. If the Executive Committee, by majority vote approves the proposed rule, it shall thereafter proceed to publication as provided in the preceding section.

Section 3. Method of Adopting Final Rules. Following the expiration of the 10-day comment period, the Executive Committee shall review all public comments and prepare a statement that responds to comments and discusses the basis for any appropriate changes to the proposal. The Executive Committee shall present such statement to the LEPC. The LEPC shall then vote on the adoption of the proposed rule. If the vote is favorable, the rule shall take effect immediately upon the time and date the notice of adoption is first published.

Section 4. Notice of Adoption. Upon adoption of any rule by the LEPC, the Coordinator shall also publish the LEPC’s response to comments received and any changes to the proposal made in response to such comments. Publication of the final rule shall be in the same manner as that for the proposed rule.

Section 5. Emergency Rules. In emergency circumstances, the LEPC may adopt rules without prior public notice and comment, provided that no such rule will remain in effect for more than 90 days.

ARTICLE VIII

Public Access to Information

In accordance with Section 324 of the Emergency Planning Community Right to Know Act (EPCRA), all information obtained from an owner or operator pursuant to EPCRA and any requested Tier II form or the Safety Data Sheet (SDS) formerly known as Material Safety Data Sheet (MSDS) otherwise in possession of the Committee shall be made available to the person submitting the request under this section, provided upon request of the owner or operator, the Committee shall withhold from disclosure the location of any specific chemical identified in the Tier II form.

All information requested to be photocopied by any member of the public, shall be provided at the sole expense of such persons. The cost of such photocopying shall be set from time to time by the Coordinator, with the approval of the Executive Committee, at a level, which will enable the LEPC to recover all reasonable expenses associated with processing the request. Copies of the LEPC bylaws, proposed rules or current rules shall be provided at no charge to the public, although the Coordinator is authorized to recover reasonable expenses for photocopying in the case of requests for multiple copies made by any single individual or entity.

Requests for information will be processed as soon as practicable, but in no case will the timeframe to complete the request exceed 30 days. Note: If the LEPC does not have the information requested in its possession and must contact the facility owner/operator to collect the requested information the timeframe may be extended.

Request for SDS (formerly MSDS) and Other Non-Confidential Information:

1. Any person may obtain a SDS (formerly MSDS) with respect to a specific facility by submitting a written request to the Committee's Coordinator, as listed below:

LEPC Coordinator
Town of Brookline
Office of Emergency Management
350 Washington St.
Brookline, MA 02445
LEPC@brooklinema.gov

2. Any person may obtain any other non-confidential information in the possession of the Committee by submitting a written request to the Committee's Coordinator (* *see contact information above*).

3. If the Committee does not have in its possession the SDS, MSDS or other information requested in this section, it shall request a submission of the SDS or MSDS from the owner or operator of the facility

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that is the subject of the request. The Committee will only make requests to specific facilities for information, which it is required to maintain or collect pursuant to applicable law.

Requests for Tier II Information:

1. Any person may request Tier II information with respect to a specific facility by submitting a written request to the Coordinator in accordance with the requirements of this section (**see contact information above*).
2. If the Committee does not have in its possession the Tier II information requested in this section, it shall request a submission of the Tier II form from the owner or operator of the facility that is the subject of the request, provided that the request is from a state or local official acting in his or her official capacity or the request is limited to hazardous chemicals stored at the facility in an amount in excess of threshold planning quantities.
3. If the request under this section does not meet the requirements of subsection 2 of this section, the Committee may request submission of the Tier II form from the owner or operator of the facility that is the subject of the request if the request under subsection 1 of this section includes a general statement of need.

Confidential Information

In some cases, and in accordance with other Laws, Acts or legal requirements it may be appropriate for facility owners/operators to indicate that specific hazardous chemical storage locations within a facility are to remain confidential. This is indicated on Tier II Inventory Forms, and if so indicated the locations will remain confidential and will not be provided as part of a request for information.

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THIS DOCUMENTS THE RULES AND BY-LAWS OF THE BROOKLINE LOCAL EMERGENCY PLANNING

COMMITTEE (LEPC) ADOPTED AT THE REGULAR MEETING OF THE LEPC ON THIS THE _____ DAY OF

_____, IN THE YEAR _____.

LEPC CHAIRPERSON (PRINTED)

LEPC CHAIRPERSON (SIGNATURE)

DATE

FOR SELECT BOARD:

(PRINTED)

(SIGNATURE)

DATE

9.A.

CATEGORY	NAME	TITLE	AFFILIATION	Standing Committees
Chairperson	John F. Sullivan	Fire Chief, EMD; LEPC Chair	Brookline Fire	All
Emergency Management	Cheryl Anne Snyder	Emergency Management Coordinator; LEPC Coordinator	Brookline OEM	All
Elected State/ Local Official	Mike Sandman	Select Board Member	Brookline Select Board	Right to Know / Emer. Response
Law Enforcement	Jennifer Paster	Acting Chief	Brookline Police	Emer. Response
	Rob Disario	Sgt. CSD; Emergency Management Coordinator	Brookline Police	Public Ed. & Info.
Emergency Medical Services	Kevin Mont	VP, Emergency Preparedness & Diagnostic Testing	Coastal Medical Transportation Systems	Public Ed. & Info. / Emer. Response
Fire Service	Colin O'Connell	Chief of Ops.	Brookline Fire	Haz. Mat. Facilities / Emer. Response
	Todd Cantor	Deputy Chief, Prevention	Brookline Fire	Right to Know
Health	Sigalle Reiss	Director	Brookline Public Health & Human Services	Emer. Response
	Sara Schaffer	Emergency Preparedness Coordinator	Brookline Public Health & Human Services	Public Ed. & Info.
Public Works	Erin Gallentine	Commissioner	Brookline Department of Public Works	Emer. Response
Legal	Joe Callanan	Town Counsel	Brookline Town Counsel's Office	Right to Know
Local Environment	Tom Barrasso	Director Of Sustainability	Brookline Department of Planning and Community Development	Right to Know
School	Matthew J. Gillis	Director of Operations and Facilities	Public Schools of Brookline	Haz. Mat. Facilities
Public Information Officer	Devon Fields	Asst. Town Administrator, Operations	Town of Brookline	Right to Know / Public Ed. & Info.
Broadcast/Print Media	Kathy Bisbee	Executive Director	Brookline Interactive Group (BIG)	Public Ed. & Info.
Community	Larry Rosenberg	Volunteer	Red Cross of MA	Public Ed. & Info.
	Rene Fielding	Emergency Management Director	Boston University	Emer. Response
	Sarah Tsay	Director of Emergency Preparedness, BWH/BWFH	Mass General Brigham	Emer. Response
	Carl Cowan	Associate Director of Emergency Management	Harvard Medical School	Haz. Mat. Facilities
Owner/Operator EHS Facilities	Patrick O'Neill	Environmental Safety Officer	Brookline DPW	Haz. Mat. Facilities
Transportation / MBTA	Michael McCabe	Director, Security & Emergency Management	Mass DOT / MBTA	Haz. Mat. Facilities
Water - MWRA	Stephen Estes-Smargiassi	Director, Planning and Sustainability	MWRA	Haz. Mat. Facilities
Electricity - Eversource	Ryan Earle	Community Relations Specialist	Eversource	Emer. Response
Natural Gas - National Grid	John Barkas	Community & Customer Mgmt.	National Grid	Emer. Response
MEMA	Heather Smith	Local Coordinator – Region 2	MEMA	Right to Know / Haz. Mat. Facilities
DHS, CISA	Charles Colley	Chief, Chemical Security - New England Region 1	CISA, Region 1	Haz. Mat. Facilities
EPA, Enforcement and Compliance	Len Wallace	Waste and Chemical Compliance	EPA, Region 1	Advisor

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Executive Committee. The Executive Committee will consist of the Chairperson, Coordinator, and Chairpersons of the four standing committees as described in Section 2. The Coordinator shall serve as a non-voting member of this committee. The duties of the Executive Committee shall be to coordinate activities of the Standing and Ad-Hoc Committees.

LEPC Chairperson: **Chief John F. Sullivan**

LEPC Coordinator: Cheryl Anne Snyder

Chair - Right-to-Know Committee: **Mike Sandman**

Chair - Public Education / Information Committee: **Sgt. Robert Disario**

Chair - Haz. Mat. Facilities Liaison Committee: **Patrick O'Neill**

Chair - Emergency Response / Resources Committee: **Erin Gallentine**

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Right-to-Know Committee. This Committee shall be responsible for the formulation of all policies and procedures concerning the public's right-to-know program; the formulation of all chemical release reporting procedures; the establishment of confidential information protection procedures; and the formulation of all record keeping and information dissemination procedures for the LEPC.

Chief John F. Sullivan, LEPC Chair, Ex Officio member

Cheryl Anne Snyder, LEPC Coordinator, non-voting member

Chair:

Mike Sandman

Members:

Tom Barraso

Joe Callanan

Todd Cantor

Devon Fields

Heather Smith (MEMA)

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Public Education and Information Committee. This Committee shall be responsible for reviewing the public alert and notification program; public relations with affected communities and public at large; all publicity of the LEPC; development of public education and information programs.

Chief John F. Sullivan, LEPC Chair, Ex Officio member

Cheryl Anne Snyder, LEPC Coordinator, non-voting member

Chair:

Sgt. Robert Disario

Members:

Kathy Bisbee (BIG)

Devon Fields

Kevin Mont (Coastal)

Larry Rosenberg (Red Cross/CERT/MRC)

Sara Schaffer

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Hazardous Materials Facilities Liaison Committee. This Committee shall be responsible for procedures for identification and communication with affected facilities. This Committee shall work with the Emergency Response and Resources Committee and with affected facilities to review and help the Brookline Office of Emergency Management test a HazMat ERP for the Town as required by law.

Chief John F. Sullivan, LEPC Chair, Ex Officio member
Cheryl Anne Snyder, LEPC Coordinator, non-voting member

Chair:

Patrick O'Neill

Members:

Joseph Bibbo (MWRA)
Charles Colley (CISA/DHS)
Carl Cowan (HMS EM)
Matt Gillis
Michael McCabe - Mass DOT / MBTA
Heather Smith (MEMA)
Chief O'Connell

9.A.

Emergency Response and Resources Committee. This Committee will work with the Hazardous Facilities Liaison Committee and with existing emergency response organizations within the planning district to review and help the Brookline Office of Emergency Management test a HazMat ERP for the jurisdiction as required by law. This Committee shall review existing federal, state and local plans for the purpose of coordination with the LEPC planning process.

Chief John F. Sullivan, LEPC Chair, Ex Officio member

Cheryl Anne Snyder, LEPC Coordinator, non-voting member

Chair:

Erin Gallentine

Members:

John Barkus (National Grid)

Ryan Earle (Eversource)

Rene Fielding (BU)

Kevin Mont (Coastal)

Chief O'Connell

Acting Chief Jennifer Paster

Mike Sandman

Sigalle Reiss

Sarah Tsay (MGB)



CIVILIAN COMPLAINT PROCESS AND SELECT BOARD REVIEWPROCESS FOR POLICE DEPARTMENT DISCIPLINE AND SELECTMEN'S REVIEW

General Order Number: 34.2
 2022 TBD

Effective Date: ~~July 26,~~

I. PURPOSE:

The purpose of this policy is to encourage and enhance accountability and public confidence in, and cooperation with, the Police Department through the establishment of formal procedures for acting upon allegations of misconduct by officers or of inappropriate policies.

All allegations of misconduct shall be construed as "complaints" and shall be processed as hereinafter described.

All complaints of misconduct of officers shall be investigated in an efficient, fair, thorough, and timely manner, showing equal concern for the rights of both ~~citizens~~ civilians and officers. All investigations of complaints shall strictly follow the guidelines in this policy unless there is a good reason to deviate from these guidelines and such deviation does not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation shall be stated in the investigation report.

II. OBJECTIVES:

1. PROTECTION OF THE PUBLIC:

The public has the right to expect efficient, fair, and impartial law enforcement. Therefore, any misconduct by Department personnel must be detected, thoroughly investigated, and properly adjudicated to assure the maintenance of these qualities.

2. PROTECTION OF THE DEPARTMENT:

The Department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subjected to public censure because of the misconduct by a few of its personnel. When an informed public knows that its police department honestly and fairly investigates and adjudicates all allegations of police

misconduct against its members, this public will be less likely to feel any need to raise a cry of indignation over alleged incidents of misconduct.

3. PROTECTION OF THE EMPLOYEE:

Employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigation process.

4. REMOVAL OF UNFIT PERSONNEL:

Personnel who engage in serious acts of misconduct or who have demonstrated that they are unfit for law enforcement service must be removed for the protection of the public, the Department and other police officers.

5. CORRECTION OF PROCEDURAL PROBLEMS:

The Department is continually seeking to improve its efficiency and the efficiency of its personnel. Occasionally, personnel investigations uncover or disclose faulty procedures that would otherwise have gone undetected. These procedures can then be improved upon or corrected.

III. PROCEDURES:

1. RECEIVING COMPLAINTS

A. Any person having a complaint against an officer or policy of the Police Department may register such complaint in person, in writing on a Citizen Civilian Complaint Form or otherwise, or by telephone, as follows:

1. To the Office of Professional Responsibility (hereinafter referred to as the "IAO") or, if the IAO is unavailable, to ~~the highest-ranking superior officer~~ a supervisor available at the Police Station ~~exclusive of the Chief ("Officer in Charge")~~, who shall forward the complaint to the IAO as soon as possible.
2. To the ~~Selectmen's-Select Board's~~ Office at Town Hall. The ~~Selectmen's-Select Board's~~ Office shall forward the complaint as soon as possible to the IAO. If the complainant reports to the ~~Selectmen's-Select Board's~~ Office, the complainant shall be informed of the following:
 - a. The IAO, or another ranking officer designated by the Chief, is available to be present at the complainant's interview.
 - b. The complainant shall also be given the option of recording his/her statement.
 - c. The complainant may decline both aA and bB and give a statement to a representative of the ~~Selectmen's-Select Board's~~ Office only.
3. Submit complaints in writing and on-line via the Department's web site, which complaints shall be forwarded as soon as possible to the IAO.

4. Complaints may also be submitted directly to the Police Commissioners Advisory Committee through the email address provided on their webpage. This email address will also be monitored by a person from the Diversity Office. The PCAC will then forward the complaint to the IAO for investigation.

B. A complaint may be resolved to the complainant's satisfaction immediately by the IAO/or other supervisor taking such complaint. In such a case, this type of resolution shall be reported in writing by the IAO/or supervisor taking the complaint and submitted to the Chief of Police (and to the IAO, if the person taking the complaint is not the IAO), and if possible, acknowledged in writing by the complainant. Some situations where a complaint may be immediately resolved are the following:

1. The incident is clearly not of a serious nature, or arises from a misunderstanding or lack of knowledge of the law or of limitations in a police officer's authority.
2. The complainant declines to participate in the formal complaint process. Under no circumstances shall a complaint be delayed, rejected or refused if the complainant wishes to initiate a formal complaint.

When a supervisor is unable to resolve a complaint to the satisfaction of the complainant, that supervisor must explain the procedure by which the complainant can file a formal complaint.

C. All Town employees shall render prompt, courteous assistance to any person wishing to register a complaint. Any employee who is informed by a citizen/civilian of information that could be construed as a complaint shall immediately refer the complainant to the IAO or, if the IAO is unavailable, to the Officer in Charge, who shall forward the complaint as soon as possible to the IAO.

D. The IAO or, if the IAO is unavailable, the Officer in Charge shall observe the following procedures and take the following actions relative to receiving a complaint:

1. If the complaint is made in person, provide a private area in which to receive the complaint. If necessary, the employee shall offer the complainant transportation so that he/she may make the complaint in person.
2. The complaint may be taken over the telephone.
3. Ascertain the nature of the complaint.

4. If the complainant is in person, advise him/her of the procedures to be followed in processing his/her complaint, including the complainant's option of registering such complaint with the ~~Selectmen~~Select Board's Office, anonymously, and to be accompanied by a representative of his/her choosing during the interview, and provide the complainant (if in person, but in any event no later than five business days after the filing of the complaint) with a copy of the ~~Citizen~~Civilian Complaint Form and a brochure explaining the steps that will be followed in the complaint process.
5. If the complaint unquestionably alleges only Class C issues (see III(3)(C) below), the IAO/Officer in Charge shall briefly explain the Town policies in question, and offer to initiate an investigation pursuant to this policy only if the complainant, after such explanation, chooses to proceed with the complaint in accordance with this policy.
6. If it is the Officer in Charge who receives the complaint, the Officer in Charge shall forward the complaint to the IAO as soon as possible for investigation and processing pursuant to this policy.

- E. All complaints, including anonymous or third party complaints, shall be processed in the same manner so long as there is sufficient information to warrant an investigation.
- F. Any officer who has information or evidence of another officer's misconduct shall convey it to the Chief or to the IAO.
- G. Although the complaint shall be received, it shall not be further processed if received more than six months after an alleged incident, unless either the Chief or a majority of the ~~Board of Selectmen~~Select Board finds extraordinary or compelling circumstances, such as Class A complaints that appear conducive to a productive investigation notwithstanding the passage of time or newly available evidence.
- H. The IAO, as soon as practicable, shall notify the Chief of Police verbally or in writing of all complaints in the nature of Class A and Class B complaints against departmental employee(s).

2. ~~CITIZEN~~CIVILIAN COMPLAINT FORMS

- A. To the extent possible, all complaints shall be taken on an official ~~Citizen~~Civilian Complaint Form.

- B.** The IAO or, in the event the IAO is not available, the Officer in Charge who takes the complaint shall:
1. Attempt to obtain all information sought on the form, to the extent available to the complainant, along with any other information which could potentially assist in a subsequent investigation.
 2. Ask the complainant to specify any information included in the complaint that the complainant considers private and wishes the Department to maintain confidentially, to the extent doing so is permissible under the law.
 3. If the identity of the accused officer is not certain, facilitate a fair identification procedure. If a description, together with intradepartmental investigation, does not identify an officer, the complainant shall be given a prompt opportunity by the IAO to view up-to-date photographs of any officers who had an opportunity to participate in the alleged incident, said photographs to be inserted in a reasonable array.
 4. If the complainant alleges a physical injury caused by misconduct of an officer, attempt to document and verify such injury. The complainant shall be encouraged to seek further documental verification of such injury. Any such verification or encouragement shall be noted on the CitizenCivilian Complaint Form.
- C.** Complainants who are interviewed are entitled to have a representative of their choosing present with them during their interview.
- D.** The complainant shall be given an opportunity to read, and then amend, the CitizenCivilian Complaint Form. The complainant shall then be asked to sign the CitizenCivilian Complaint Form. If he/she is unwilling to sign it, the unwillingness shall be noted on the form and the complaint shall be processed in conformity with this policy.
- E.** The complainant shall immediately be given a copy of the completed CitizenCivilian Complaint Form and a brochure explaining the steps that will be followed in the complaint process.
- F.** If the complaint is made by telephone or otherwise in a manner other than in person, a copy of the completed CitizenCivilian Complaint Form and the brochure shall be mailed by the IAO to the complainant along with a request that the complainant make any necessary corrections to the statements contained on the form and sign and return one copy of the latter in an enclosed, addressed, stamped envelope.
- G.** Any such completed and returned Forms shall be given directly to the IAO.

- H. The IAO/Officer in Charge taking the complaint shall ascertain that the complainant understands the subsequent procedures as summarized in the brochure.

3. CLASSES OF COMPLAINTS & CONFIDENTIALITY

- A. **Class A:** allegations against an officer which, if true, could be construed as "serious", including excessive use of force; malicious and illegal arrest; unreasonable deprivation of individual rights; biased conduct or behavior based on a person's disability, ethnic origin, gender, race, religion, sexual orientation, age, economic status, cultural group, gender identity or any other identifiable group; corruption; untruthfulness; criminal activity which could be construed as a felony; or violation of Department rules which might warrant more than a five day suspension.
- B. **Class B:** any other allegations against an officer which, if true, could be construed as a violation of any laws, rules, regulations, or policies of the department, the Town, or the Commonwealth; or alleged discourteous conduct or language which would reflect negatively on the Department or the Town.
- C. **Class C:** allegations which do not question the conduct of any officer, but rather raise issues relating to the appropriateness of Department procedures or policies.
- D. **Class D:** Allegations that are clearly frivolous or for other reasons do not merit disciplinary action.
- E. The IAO or Officer in Charge shall make a preliminary designation on the Form of Class A, B, C, or D, resolving any doubt in favor of a higher classification. A complaint may be designated "C" in addition to "A" or "B".
- F. A copy of any ~~Citizen~~Civilian Complaint Form which has been designated Class A shall, along with a copy of the police incident reports, be immediately provided to the Chief, who shall immediately provide such unredacted materials, marked "Confidential," to the ~~Board of Selectmen~~Select Board.
- G. Prior to the conclusion of the departmental investigation (*i.e.*, through such time as the Chief sends his or her report to the ~~Board of Selectmen~~Select Board), information concerning an investigation, other than the fact that an investigation is underway, shall remain confidential.

4. INTERNAL AFFAIRS/STAFF INSPECTION OFFICER AND PROCEDURES

- A. A Deputy Superintendent or Lieutenant shall hold the position of Internal Affairs/Staff Inspection Officer (IAO). This officer shall be answerable only to the Chief and the ~~Board of Selectmen~~Select Board. The IAO shall have responsibility for the investigation and processing of complaints under this policy unless the Chief, in extraordinary circumstances, designates another superior

11.A.

officer to do so, in which case such superior officer shall fulfill the responsibilities of the IAO set forth in this policy.

- B.** The IAO shall conduct periodic staff inspections and shall reduce to writing to the Chief any alleged violations of departmental rules and regulations or any other allegations which, if true, could merit corrective or disciplinary action.
- C.** All investigations of complaints shall strictly follow the guidelines in this policy unless there is a good reason to deviate from these guidelines and such deviation would not compromise the fairness, completeness, and reliability of the investigation. If there is a deviation from these guidelines, the reason for such deviation shall be stated in the investigation report.
- D.** All complaints received by the Chief shall be immediately forwarded from the Chief to the IAO for investigation, unless the Chief, in extraordinary circumstances, designates another superior officer to investigate a complaint.
- E.** In the case of a Class A complaint, the IAO shall exercise all due diligence to attempt to schedule a personal interview with the complainant within 72 hours, offering to meet the complainant at any reasonable location. If the complainant insists, he/she may be interviewed over the telephone and this shall be noted in the report.
- F.** In the case of a Class B or C complaint, the IAO shall attempt to reach the complainant by telephone within one week. The complainant shall be invited to the station to meet with the IAO, but may be interviewed on the telephone if he/she prefers.
- G.** For Class D complaints, the IAO shall review the complaint and return it to the Chief with a report recommending either reclassification, or a finding of either "exonerated" or "unfounded".
- H.** The IAO shall use any and all lawful investigative techniques including prompt and private interviews of witnesses and officers, maintaining thorough records of all conversations and investigative occurrences, and assisting both complainants and officers in identifying and locating evidence to corroborate their factual assertions.
- I.** The IAO shall make reasonable attempts to interview all witnesses identified by the complainant or subject officer, or reasonably identifiable from information obtained from either of them or from any officer on the scene of the incident or otherwise, who reasonably appear to possess information relevant to the investigation.
- J.** Witnesses who are interviewed by the investigator are entitled to have a representative of their choosing present with them during their interview.

- K. Witnesses shall be asked to specify any information they supplied that they wish the Department to maintain confidentially, to the extent doing so is permissible under the law.
- L. Witnesses shall be requested to sign their statements or the summary of their statements created by the IAO, if they did not supply a statement on their own.
- M. Summaries of witness interviews shall reflect whether the interview was conducted in person or by telephone, and whether it was conducted as a joint witness interview with any other witness(es) and if so whom. As a general rule, joint witness interviews shall be avoided when possible.
- N. Inability to interview, or lack of cooperation by the complainant, the officer, or any person, shall not foreclose further investigation.
- O. An investigation shall go forward regardless of any potential civil or criminal liability, investigation, or charges. Should a critical witness claim a Fifth Amendment privilege because of a pending or potential criminal proceeding, the ~~Board of Selectmen~~ **Select Board**, after receiving a recommendation from the Chief, may defer the conclusion of the investigation or hearing, until the conclusion of the criminal proceeding, or until the witness is willing to testify, whichever is earlier.
- P. **Subject Officer:**
 - 1. After diligent efforts to interview the complainant, the IAO shall issue to the subject officer a written statement of the allegations and the employee's rights and responsibilities relative to the investigation and shall subsequently interview the officer, unless either step would interfere with the investigation.
 - 2. A subject officer shall not initiate contact with the complainant or any witness. If unavoidable contact occurs, he/she shall not discuss or indirectly allude to the complaint or its allegations.
 - 3. A subject officer may have counsel or a union representative present at any interview unless an unreasonable delay would be necessitated.
 - 4. In interviewing or attempting to interview the subject officer, the IAO or other investigating officer shall be mindful of the provisions of state and federal law that are applicable to the questioning of public employees.
- Q. The IAO shall respond to all reasonable inquiries by the complainant as to the status of the investigation. Any delays shall be explained to the complainant.
- R. In the case of a Class A or B complaint, and subject to approval by the Chief and after an investigation has been completed, the IAO may attempt to act as a

mediator and seek a proposed disposition, such as an apology or promise of future efforts(s) (e.g., the Early Intervention System, see Section III(18) below), which is mutually agreeable to the complainant and the accused officer. Any such agreement by the officer shall not be considered an admission of fault and shall only be considered in mitigation of the severity of the disposition, if any. Neither party shall be pressured to accept such an agreement. Any such agreement shall be subject to the approval of the Chief and ~~Board of Selectmen~~Select Board as hereinafter described.

S. If, during an investigation, the IAO learns of any allegation (including a Class C-type allegation) beyond the scope of the complaint under investigation, he/she shall execute a new CitizenCivilian Complaint Form and initiate the procedures herein described.

T. Unless the Chief certifies that good cause requires an extension of no more than 30 days, the IAO shall submit to the Chief a report containing his/her findings and conclusions within 30 days of commencing an investigation of a complaint. Any extensions beyond the foregoing shall be submitted for approval by a majority of the ~~Board of Selectmen~~Select Board. The findings and conclusions shall include:

1. All pertinent reports and documents, including any witness statements that were submitted in writing or reduced to writing.
2. A detailed account of all pertinent factual assertions of everyone interviewed noting times and persons present at interviews, highlighting areas of agreement and disagreement, etc.
3. Proposed factual conclusions, including the relative credibility of any conflicting factual allegations, and objective reason(s) for such conclusions, with regard to each original allegation and any others that have become apparent during the investigation. The lack, existence, quantity, or quality of corroborating evidence shall be pertinent to the weight of any evidence, but shall not be determinative.
4. On each such allegation, a proposed finding based upon a preponderance of the evidence shall be made using the following categories and definitions:

a. "Unfounded" - investigation revealed that ~~the alleged conduct~~
~~—did not occur; there was no misconduct.~~

b. "Exonerated" - alleged action occurred but was reasonable and proper.

c. "Not Sustained" - allegation cannot be either proven or disproved.

d. "Sustained" - investigation indicates sufficient evidence to support

Commented [PC1]: Prior definition of "unfounded" creates all kinds of issues. Many times, parts of the "alleged conduct" did occur, but not all of it. So a finding that says it did not occur is frustrating to the complainant and also misleading.

the allegation.

e. "Mediated" - both parties agree to a proposed and described disposition (Classes A and B only).

f. "Misconduct Not Based on Original Complaint" – The investigation discovered misconduct that was not part of the original complaint.

Commented [PC2]: For situations when new misconduct is discovered during an investigation that was not known at the time complaint was filed.

gf. "Filed" – no action necessary or possible at this time.

5. Any mitigating or aggravating circumstances which have come to the attention of the IAO.
6. Relative to any allegations that are sustained or not sustained, a chronological list of any similar complaints against the said officer, along with the dispositions.
7. Witness statements shall be appended to the IAO report.

U. INVESTIGATIVE TECHNIQUES:

1. All investigations under this policy shall be conducted in accordance with the normal and legal Department investigative procedures with regards to:
 - a. The use of detection equipment
 - b. Medical or laboratory examinations
 - c. Covert photographing, and photo identification
 - d. Lineups
 - e. Financial disclosure information
2. **INVESTIGATIVE TECHNIQUES GENERALLY:** In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods shall be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee. An internal administrative investigation shall be conducted with the same degree of professional competence as is devoted to a criminal investigation. Employees or officers will have the same rights on these matters as any individual under investigation by this Department.

The accuracy of the investigative report shall be assured by requiring the investigator to take all reasonable efforts to obtain witness statements by one or more of the following methods:

- a. Taped (audio or video) statements with consent of witness;
- b. Witness's own signed statement;

- c. Witness's verbal statement given to the IAO and reduced to writing by the investigator and reviewed for accuracy and signed by the witness, affirming that the statement is accurate.

Witnesses who do not wish to sign statements they submit or statements reduced to writing by the investigator shall not be required to do so. If the witness disagrees with the investigator's version of the witness's statement and the investigator declines to change the statement in conformity with the witness's wishes, the witness shall be asked to submit his/her separate version of what he/she said and asked to sign it.

3. **MEDICAL/LABORATORY EXAMINATION:** Upon orders of the Chief of Police or his/her designee, an employee may be required to submit to a medical or laboratory examination, at the Department's expense. This examination must be specifically directed and narrowly related to a particular internal affairs investigation being conducted by the Department.
4. **IDENTIFICATION:** A police officer may be required to be photographed and can be compelled to stand in a lineup for identification in connection with an administrative investigation when such action is material to an investigation, and a refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup shall be fairly constructed and not be unfairly suggestive and shall not be used for an administrative investigation where criminal charges are contemplated.
5. **SEARCHES:**
 - a. A police officer's personal property, including his/her home, car and other property, is protected from unreasonable search and seizure under the Massachusetts Constitution, and it is possible that any evidence illegally obtained may not be used as evidence in an administrative proceeding.
 - b. Department property furnished to the officer, such as desks, lockers, or vehicles, in which it is clearly understood in advance that an officer has "no expectation of privacy," may be searched without a warrant.
6. **FINANCIAL DISCLOSURE:** A police officer may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is material to the investigation being conducted. Such submissions shall only be conducted in a manner that is consistent with federal and state statutory and case law and past administrative decisions.

7. **LIE DETECTOR/POLYGRAPH TESTS:** Under the provisions of G.L. c. 149, § 19B, police officers may be required to submit to a polygraph or lie detector test in connection with an internal administrative investigation if such test is conducted by a law enforcement agency in the course of a departmental investigation of criminal activity, and under such circumstances, officers may face disciplinary action for refusal. Such tests shall be administered by trained and certified individuals in accordance with federal and state statutory and case law and past administrative decisions.

- V. On a monthly basis, the IAO shall prepare a report enumerating all complaints (including Class C and D complaints) against departmental employees and complaints against the Police Department generally that had been brought to the attention of the IAO during that month. This report will be provided to the Chief of Police and also the Police Commissioners Advisory Committee (with confidential information redacted). Included in the report will be the outcome(s) of the investigation(s) that have been completed and the status of investigations not yet completed. On an annual basis, the IAO shall compile statistical summaries of IAO investigations for the preceding year, such information to be presented to the Board within the Chief's annual departmental report to the ~~Board of Selectmen~~Select Board.

- W. The Brookline Police Department shall not include a nondisclosure, non-disparagement, or other similar clause in a settlement agreement between the Brookline Police Department and a complainant in order to settle a complaint of professional misconduct by a law enforcement officer unless the complainant requests such provisions in writing. ~~§2~~

X. **TRAINING:**

The IAO and other Department personnel shall be trained concerning requirements of this policy. IAO training shall include training on the weighing and evaluating of evidence, including the credibility of witnesses.

5. **DISPOSITION AND NOTIFICATION BY THE CHIEF:**

- A. The complainant and the subject officer shall be furnished with a copy of the IAO report within seven days of its completion, provided that the Chief shall redact 1) from any copy of the IAO report the Department furnishes to a person other than the person the information concerns (*i.e.*, the subject officer, in the case of (a) below, and the complainant, in the case of (b) below), information relating to similar prior complaints that date in excess of two years prior to the incident that were a) made against the police officer, or b) filed by the complainant as a ~~citizen~~civilian complaint; 2) the name and other identifying information of any

~~private citizen~~civilian who requests that his/her identity not be disclosed; and 3) any information in the report that comes within an exemption to the Massachusetts Public Records Law, G.L. c. 66, § 10 and G.L. c. 4, § 7(26). Such IAO report shall be accompanied by any witness statements that were submitted in writing or reduced to writing pursuant to this policy, which shall be redacted upon distribution to the complainant and subject officer as set forth in items 1, 2, and 3 of this Paragraph. The complainant and the police officer shall be notified that any comments concerning the IAO report, including additional statements by witnesses, may be submitted to the Police Chief within 10 days of receipt of such materials. Any such comments and statements shall be appended to the IAO report. Should any such comments and statements be received, the Chief shall take any action he/she deems appropriate, however, the Chief is not expected to negotiate with anyone concerning the content of the final report he or she submits to the ~~Board of Selectmen~~Select Board.

B. Upon receipt of the IAO's report containing its findings and conclusions and the passage of the allowed time for the complainant and police officer to submit comments regarding the IAO report, the Chief shall either:

1. Request a further investigation; or
2. Promptly prepare his/her own report setting forth the Department's final disposition with regard to the classification of the complaint, and of each allegation along with a summary of the reasons therefore. The Chief's report shall also indicate what, if any, disciplinary action or remedial measures were taken or are recommended to be taken. Such actions or measures may include the assignment of the officer to the "Early Intervention System," see Section III(18) below.

C. After completion of his/her report, the Chief shall promptly send:

1. To the ~~Selectmen~~Select Board via the Town Administrator, a copy of his/her complete report along with the IAO report and investigative file, in unredacted form and marked "Confidential," which the Select Board ~~of Selectmen~~ shall maintain confidentially in a secure environment.
2. To the complainant and to the police officer who is the subject of the complaint,
 - a. a Notice of Complaint Disposition Form indicating the disposition of each allegation and an Internal Investigation Appeal Form and a return, addressed envelope. Said notice shall clearly explain the right to and process for appeal for review by the ~~Board of Selectmen~~Select Board; and
 - b. a copy of the Chief's report, including any comments by the complainant and subject officer and additional statements by

witnesses, provided that the Chief's report and accompanying materials shall be redacted in the same manner set forth in Section III(5)(A) with regard to the IAO report and accompanying materials.

3. -To the Police Commissioners Advisory Committee, a copy of the Chief's report with confidential information redacted, so that they may review it and advise the Select Board and/or the PCAC may mediate in appropriate cases.—

6. MAINTENANCE/RELEASE OF DOCUMENTS

Documents relative to internal investigations shall be maintained confidentially in a secure environment, separate from personnel records or centralized Department or ~~Board of Selectmen~~Select Board's Office records. Such records shall be maintained and disseminated in accordance with those provisions of state and federal law applicable to the retention, maintenance, disclosure, dissemination, inspection and copying of public records and in conformity with this policy otherwise.

7. APPEAL TO ~~BOARD OF SELECTMEN~~SELECT BOARD

- A. Unless otherwise specified by the civil service laws, any member of the Police Department aggrieved by the Chief's Report may appeal for review by the ~~Board of Selectmen~~Select Board within twenty-one days. Said appeal shall be reviewed by Town Counsel and shall proceed as hereinafter described unless civil service laws mandate alternative procedures. The twenty-one day appeal period begins with the date of receipt of the final disposition form being day one.
- B. Any ~~citizen~~civilian aggrieved by the Chief's Report may, within twenty-one (21) days, appeal for review by the ~~Board of Selectmen~~Select Board by submitting to the Town Administrator a completed Internal Investigation Appeal Form. The classification of the complaint may be the reason for such an appeal. The twenty-one day appeal period begins with the date of receipt of the final disposition form being day one.
- C. Upon receipt of any appeal received in a manner other than through a completed Internal Investigation Appeal Form, the Town Administrator shall send to the aggrieved person an Internal Investigation Appeal Form and a return, addressed envelope.

Commented [PC3]: Added for clarification

8. REVIEW BY THE TOWN ADMINISTRATOR *(All references to the Town Administrator shall also connote and include the Deputy Town Administrator)*

- A. Upon his/her receipt of a completed Internal Investigation Appeal Form, the Town Administrator shall:

1. Review the class designation, and amend the designation if necessary in his/her opinion, which designation shall subsequently be reviewed and either approved or changed by the vote of the ~~Board of Selectmen~~Select Board (including any change that adds a Class C designation).
 2. Immediately forward an unredacted copy of the complaint, the Chief's report, the IAO report, and all supporting documents (including all witness statements and any comments of the complainant, the subject officer and witnesses with regard to the IAO report) to the ~~Board of Selectmen~~Select Board, which shall be marked "Confidential" and which the ~~Selectmen~~Select Board shall maintain confidentially in a secure environment.
 3. Review the reports for completeness, and send the matter back to the Chief for any further investigation that he/she or any Selectman deems helpful.
 4. Submit to the ~~Board of Selectmen~~Select Board at least one interim report more than one week before the conclusion of the Town Administrator's review.
 5. Complete his/her review within 30 days with regard to Class A complaints and 15 days with regard to Class B and C complaints, unless such period is extended for good cause by the ~~Board of Selectmen~~Select Board.
- B. All documents and reports subsequent to the Chief's findings shall remain confidential to the extent permitted under the Massachusetts Public Record Law, G.L. c. 66, §§ 10 and G.L. c. 4, § 7(26), except that such documents shall be disseminated to the complainant and the police officer as specified in this policy.
- C. If a majority of the ~~Board of Selectmen~~Select Board considers a Class A or Class C complaint particularly complicated or to require additional effort or expertise, special counsel may be retained to conduct an investigation.
- D. If, at any time, the Town Administrator or any Selectman believes that allegations beyond the scope of the Department investigation, such as possible misconduct by a different officer, have been raised, a new Complaint Form shall be executed and referred to the Department for immediate and expedited investigation and processing.

9. **CIVILIAN APPEAL HEARINGS, ACTION BY THE ~~BOARD OF SELECTMEN~~SELECT BOARD, AND DISCIPLINARY HEARINGS**

- A. Within 30 days after completion of the Town Administrator's review, all appeals from dispositions of ~~citizen~~civilian complaints, except as set forth below, shall be docketed for the ~~Board of Selectmen~~Select Board to hear at a Civilian Appeal Hearing at a regularly scheduled ~~Board of Selectmen~~Select Board meeting in conformity with the Massachusetts Open Meeting Law, G.L. c. 39, § 23B.

All matters involving 1) a recommendation by the Chief, thereafter approved by the vote of the ~~Board of Selectmen~~Select Board and reflected in any written notice the Board issued to the officer pursuant to G.L. c. 31, § 41, for discharge, removal, suspension for a period of more than five days, layoff, transfer from a position without written consent, lowering in rank or compensation without written consent, or abolishing of a position within the meaning of G.L. c. 31, § 41, or 2) any appeal by a police officer from other forms of disciplinary actions, shall be docketed for the ~~Board of Selectmen~~Select Board to hear as a Disciplinary Hearing (*see* Section III(9)(E)), which shall be scheduled and held in conformity with the Massachusetts Civil Service Laws, G.L. c. 31, the rules and regulations promulgated thereunder, the Massachusetts Open Meeting Law, G.L. c. 39, §§ 23A and 23B, and/or this policy, Section III(9)(E), as applicable. The matters set forth in this Paragraph shall proceed directly to a Disciplinary Hearing, without being heard at a Civilian Appeal Hearing and without further vote of the ~~Select Boardmen~~.

Civilian Appeal Hearings that are held in connection with appeals from dispositions of ~~citizen~~civilian complaints shall be postponed beyond 30 days as follows:

1. no more than two weeks for further investigation at the request of any ~~Selectmen~~Select Board member or;
 2. by vote of the Board, until the completion of the investigation of any new Complaint issued under Sections III(4)(S) and III(8)(D) above.
- B.** The procedural protections of G.L. c. 31, § 41 shall be limited to Disciplinary Hearings held pursuant to Section III(9)(E) of this policy.
- C. CIVILIAN APPEAL HEARINGS:**
1. At least two weeks notice of the Civilian Appeal Hearing to be held in connection with an appeal from the disposition of a ~~citizen~~civilian complaint shall be given to the Chief, the complainant, and, in a Class A, B or D Complaint, the accused officer.
 2. Where the appellant is a civilian who has filed a Class A, B or D Complaint, the Chief and the appellant, or their representatives, shall each be entitled to make an informal presentation before the ~~Selectmen~~Select Board at such Civilian Appeal Hearing. The subject officer and/or his/her representative shall be entitled, but shall not be required, to make an informal presentation at such Civilian Appeal Hearing. In addition, the appellant and the subject officer shall each have the right, but shall not be required, to present up to three eyewitnesses to make informal presentations, each of whom shall have the right to address the Board for

no more than five minutes. By a majority vote, the ~~Selectmen~~Select Board may permit additional eyewitnesses to make informal presentations at such Civilian Appeal Hearing or may extend the time for such presentations.

D. ACTION BY THE ~~BOARD OF SELECTMEN~~SELECT BOARD:

1. By majority vote, the ~~Selectmen~~Select Board shall do one of the following with regard to appeals from ~~citizen~~civilian complaints after hearing informal presentations at the Civilian Appeal Hearing in the case of Class A, B or D Complaints:
 - a. After deliberation in conformity with the Massachusetts Open Meeting Law, G.L. c. 39, §§ 23B(1), take steps regarding potential disciplinary action in conformity with such law, with the Massachusetts Civil Service Law, G.L. c. 31, and with Section III(9)(E) below, as applicable (including, if and as applicable, (a) the issuance of written notice to the subject officer stating the action contemplated and the specific reason(s) for such action, and (b) the docketing and convening of a two-phase Disciplinary Hearing as described in Section III(9)(E)(2) and otherwise below); or
 - b. Refer the matter back to the Police Chief for further action; or
 - c.. Appoint one or more independent persons to conduct an investigation and write a report for the ~~Selectmen~~Select Board concerning the facts relating to the complainant's allegations. The person(s) selected to conduct the investigation should, depending on the nature of the complaint, be experienced in working with persons of diverse backgrounds, including racial, ethnic and cultural groups, and people of different genders, sexual orientation, and mental and physical abilities. After receipt of that report, the ~~Selectmen~~Select Board may take any of the steps set forth in Sections III(9)(D)(1)(a), (b), or (d); or
 - d. Dismiss the complaint and notify all parties of such.
- 2.. For Class C complaints, the Chief shall, more than one week before the Civilian Appeal Hearing, provide an explanation of the current policy, possible alternatives, factual or legal background material, and any other information requested by the Town Administrator or any Selectman.
3. For Class C complaints, any individual and/or organization may submit a written or brief oral presentation regarding the appropriateness of the Department policy or procedure, and the ~~Selectmen~~Select Board may

invite any community group (such as the Human Relations/Youth Resources Commission) known to have interest or expertise to participate in the Civilian Appeal Hearing regarding such appropriateness. Where a complaint, in addition to Class C allegations, contains allegations that could subject an officer to discipline, the allegations specific to the officer shall be governed by Section III(9)(C)(2) above and any Civilian Appeal Hearing regarding the Class C allegations may be bifurcated from any Civilian Appeal Hearing regarding Class A, B or D allegations specific to the officer.

E. DISCIPLINARY HEARINGS:

- 1.. The ~~Selectmen~~Select Board may choose to make the convening of a Disciplinary Hearing of a Class B or D complaint contingent on the appearance by the person who filed the complaint of misconduct to appear and give testimony in accordance with these procedures.
2. The Disciplinary Hearing shall be separated into two phases, the first phase to determine a finding (*see* Section III(4)(T)(4) *supra*) on each allegation and, if an allegation against an officer is sustained, a second phase to determine the disciplinary disposition, both by vote of a majority of the ~~Board of Selectmen~~Select Board.
3. Disciplinary Hearings shall proceed in accordance with the civil service law, G.L. c. 31, the regulations thereunder, and the following provisions:
 - a. The parties to a Disciplinary Hearing shall consist of the Subject Officer and the Chief or his or her designee as the employer-complainant. In the event that the Chief is not pursuing the matter, the Town shall be a party to such hearing as the employer-complainant.
 - b. Pursuant to G.L. c. 31, § 41, the Chief or the Town shall file a written request and notify the parties that the hearing shall be public unless:
 - i. The accused officer does not file a written request for a public Disciplinary Hearing, and
 - ii. The accused officer or the employer-complainant requests a closed Disciplinary Hearing, the requirements of G.L. c. 31, § 41 are met, and the Board votes for a closed session.
 - c. A Disciplinary Hearing shall be docketed for hearing by the ~~Board of Selectmen~~Select Board promptly and in any event within any applicable timeframes established by the Civil Service Law.

- d. Either party to a Disciplinary Hearing may bring witnesses to testify. A subpoena shall be issued at the request of the Town Administrator or ~~Selectmen~~Select Board, or at the request of any party unless a majority of the ~~Selectmen~~Select Board deem such a subpoena unreasonable and unfair.
- e. Either party may be represented by an attorney or other designated spokesperson. A witness may be represented by counsel.
- f. The Disciplinary Hearing is administrative and need not be conducted according to technical rules of procedure, evidence or witnesses. The purpose of the Disciplinary Hearing is to determine the facts and situations surrounding a case. The ~~Board of~~SelectmenSelect Board, especially when counsel is not present, shall protect the rights of all parties whenever through the lack of ability, inexperience, or oversight, either side's case may seem to be improperly prejudiced.
- g. The Chairperson will conduct the Disciplinary Hearing subject to being overruled by a majority of the Board members. Members of the Board shall be finally responsible for obtaining complete and accurate facts.
- h. The first phase of the Disciplinary Hearing will proceed as follows: The employer-complainant will present the Complaint, and introduce witnesses, if any. In the case of a Class A complaint for which the person who filed the complaint of misconduct does not appear to testify, Town Counsel will perform the role of that person. The Subject Officer shall then respond to the complaint and introduce witnesses, if any. Each person testifying, and each party to the complaint, may be questioned by the Board and by the parties or their attorneys. After the Board has taken all relevant evidence, each party will be given an opportunity to make a closing statement. At the conclusion of the first phase, the Board shall take a vote to determine the finding(s) on each allegation and proceed, if appropriate, to the second phase.
- i. Oral evidence shall be taken only under oath or affirmation.
- j. Upon the request of either party or a Selectman, witnesses other than the accused officer shall be excluded from the hearing until they are called to testify.
- k. Each party to the Disciplinary Hearing shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even

though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the Subject Officer does not testify in his/her own behalf he/she may be called and examined as if under cross-examination.

- l. Any evidence which is relevant to the allegations in question shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- m. If the ~~Board of Selectmen~~Select Board decides that additional information is necessary to reach its findings, it will continue the hearing to a future date unless the parties agree to allow the Board to receive such material in writing without reconvening.
- n. The standard of proof for the ~~Board of Selectmen~~Select Board findings of fault shall be preponderance of evidence.
- o. Evidence of unrelated allegations, incidents, or personnel records may be received only in the second phase of the Disciplinary Hearing.
5. In addition to its deliberations and votes(s) at the Disciplinary Hearing, the ~~Board of Selectmen~~Select Board shall provide a written notice of its decision and disposition to the accused officer in accordance with G.L. c. 31, § 41, to the Chief, and to Town Counsel.
6. All documents relating to the Town Administrator's and the ~~Board of Selectmen~~Select Board's investigations may be released in accordance with Section III(6), supra, only.
7. The officer shall retain his or her right to further review under G.L. c. 31, § 43.

10. RELIEVING EMPLOYEE FROM DUTY:

No Officer shall be relieved from duty as a result of an Office of Professional Responsibility investigation unless such action is in accordance with G.L. c. 31, §§ 41 and 62.

11. RELIEF FROM DUTY – RIGHTS OF COMMANDERS:

The Commanding Officer of any shift or Division within the organization of the Brookline Police Department may relieve, with pay, any officer or employee under his/her command for the balance of the assigned shift only if said Commanding Officer has determined that the officer or employee is unfit or unable to perform or carry out his/her assigned duties or responsibilities. This action may or may not occur as a result of a need for disciplinary investigation or action.

Examples of relieving for non-disciplinary reasons would be as follows:

- A. If the officer or employee is suffering from an illness and appears too sick to work effectively or safely.
 - B. If the officer or employee reports to work injured, is injured during the performance of duties and a physician advises that he/she be relieved, or is injured on duty and refuses to acknowledge the apparent danger the injury may place himself/herself in if remaining on duty.
 - C. The officer's or employee's mental state as the result of an unusual or traumatic situation presents a danger that duties and responsibilities may not be performed safely and properly.
 - D. Any action by an officer or employee that results in death or serious injury, but not limited to the use of force.
- 12.** Commanders may also relieve any officer or employee from duty, with pay, for the balance of the assigned shift only, for any infraction or violation of the Rules, Regulations, Policies, Procedures, or Orders of the Department which would be conducive to holding the Department up to public ridicule or scorn, or would jeopardize the Department's mission to effectively provides police services to the community. Specific examples include, but may not be limited to, the following:
- A. Reporting to duty while under the influence of alcohol or controlled substances.
 - B. Insubordination.
 - C. Committing a criminal offense while on or off duty.
 - D. Improper use or operation of Department vehicles or equipment.
 - E. Falsifying a statement or record.
 - F. Abusing, stealing, damaging, destroying, or defacing property or equipment of the Department or others.

13. Any Commanding Officer who relieves an officer or employee from duty for disciplinary reasons shall immediately notify the Chief of Police or his or her designee and file a written Special Report, to the Chief of Police, containing all the details of the matter. Further investigation into the matter will be conducted in accordance with the procedures outlined previously in this directive.
14. Any Commanding Officer who relieves an officer or employee from duty for non-disciplinary reasons, except sickness on duty, shall file a complete written Special Report on the details to his/her immediate superior, with copies going to the Chief of Police.

15. LIAISON WITH DISTRICT ATTORNEY:

Any Office of Professional Responsibility investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's Office be apprised of the case for the purpose of advising on legal issues, and ultimate prosecution if necessary.

16. PUBLIC EDUCATION:

The Department shall maintain a brochure that it shall make available to complainants and other members of the public explaining the steps that will be followed in the complaint process. The brochure and any other informational materials about the ~~citizen~~civilian complaint process shall be subject to prior approval by the ~~Board of Selectmen~~Select Board.

The ~~Board of Selectmen~~Select Board shall ensure the creation of a plan, subject to biennial review, for educating the public about the complaint process, including on the Town Website.

17. PERIODIC ASSESSMENT:

The ~~Police Chief assisted by two civilian citizens, appointed by the Board of Selectmen~~Police Commissioners Advisory Committee, shall biennially provide the ~~Board of Selectmen~~Select Board, Town Meeting, and the public with a report on the functioning of the police complaint procedures. ~~To the extent practicable, the civilian citizens should be individuals with experience in the issues raised by civilian complaints against police officers, including, but not limited to, experience working with persons of diverse backgrounds and viewpoints.~~ The report ~~shall~~should include an assessment of the investigations of ~~citizen~~civilian complaints, an assessment of the ~~Board of Selectmen's~~Select Board's role in the complaint process, relevant statistics, comparisons with comparable communities, ~~citizen~~civilian survey results, and recommendations for any changes. The report should also include, where appropriate, a review of the interaction between police complaint policies and other town complaint policies.

Commented [PC4]: My suggestion is "should" rather than "shall." You'll find that there are some things that you may not be able to include in the assessment for any number of reasons (no surveys to compare, difficulty in finding comparable communities keeping statistics, etc.)

18. THE EARLY INTERVENTION SYSTEM

This Early Intervention System is designed to assist a potentially troubled police officer, improve accountability and enhance the quality of policing in Brookline.

A. STATEMENT OF PURPOSE AND POLICY

The Brookline Police Department is aware of the complexities of policing in today's society. In an effort to improve the quality of policing, the Department has instituted an early intervention system. This system is a progressive program that involves training, counseling and discipline. It will be used to identify officers who may be having difficulties in performing police work. By identifying these officers at an early stage, intervention can take place to correct behavior patterns thereby making it less likely they will re-occur in the future. This system will also identify problem areas, training needs and issues that must be addressed in order to provide professional and effective policing.

B. When a complaint is received regarding the actions of an officer, the Internal Affairs Officer will conduct an investigation into the complaint. In most cases, the IAO will meet with the officer complained against at some point in this investigation. During the meeting, the officer is to be made aware of the nature of the complaint alleged. At the earliest possible time, the supervisor of the officer will also be made aware of the nature of the complaint. Upon completion of this investigation, the final determination is to be made known to the officer and his/her supervisor. At the discretion of the Chief, Superintendent and/or the IAO, a meeting may take place between the IAO, the subject officer and the officer's supervisors. If further action is deemed necessary, input is to be received from all present regarding the necessary steps to be taken to insure actions of this type do not re-occur in the future.

C. Any member of the Department who receives three complaints against him/her within a two-year period will be subject to review. This review will include the cases that prompted the complaints to be filed against the officer. Present at this review will be the IAO, the Commander of the Division to which the officer is assigned and the officer's immediate supervisor(s). All present will be expected to provide input into the complaints, the particular officer's actions and his/her history. During this review, participants have the opportunity to support the officer's actions, identify any particular problems the officer is having, identify potential problems areas within the Department and, if necessary, recommend possible remedies.

D. RECOMMENDATIONS:

If a problem is identified, possible remedies include:

1. Counseling with Supervisors and/or Commander;

2. Additional training;
3. Referral for medical or psychological fitness examination;
4. A combination of additional training and supervision.

In these cases a program will be developed by the supervisor of the officer, subject to the approval of the Division Deputy Superintendent. The supervisor is to explain the program, outline steps in detail and the officer and supervisor are to sign off on the plan indicating their understanding of it. Furthermore, complete status reports are to be filed by the supervisor weekly for the first four weeks and monthly thereafter until the problem is solved. This program will include, but not limited to, ride along with a supervisor, one on one supervision, increased training and will cover a period of time not less than six months. A report is to be prepared and submitted regarding the actions recommended or taken under this system. This report is to be submitted to the Chief of Police and Superintendent.

E. REVIEW PROCESS:

1. This process of review will be ongoing. Reviews such as those set out under this system may be initiated based on a specific incident.
2. This review will not be limited to the individual police officer. This review includes potential changes and policies, procedures, and methods of operation.
2. The IAO is to conduct an on-going analysis of the type of complaints alleged against all Brookline Police Officers. Once the IAO has determined the nature of the complaints, the Department will have identified a training need.

IV. PUBLICLY AVAILABLE DATABASE BY POST

Pursuant to M.G.L Chapter 6E Section 13(a)(b):

The POST Commission shall maintain a publicly available database of orders issued pursuant to section 10 of Chapter 6E on the commission's website, including, but not limited to:

- (i) the names of all decertified officers, the date of decertification, the officer's last appointing agency and the reason for decertification;
- (ii) the names of all officers who have been suspended, the beginning and end dates of suspension, the officer's appointing agency and the reason for suspension; and

(iii) the names of all officers ordered to undergo retraining, the date of the retraining order, the date the retraining was completed, the type of retraining ordered, and the officer's appointing agency and the reason for the retraining order.

The POST Commission shall also cooperate with the national decertification index and other states and territories to ensure officers who are decertified by the Commonwealth are not hired as law enforcement officers in other jurisdictions, including by providing information requested by those entities.

V. POST: DIVISION OF POLICE STANDARDS

Pursuant to **M.G.L. Chapter 6E Section 8:**

(a) There shall be within the POST Commission an entity known as the *Division of Police Standards*. The purpose of the Division of Police Standards shall be to investigate officer misconduct and make disciplinary recommendations to the POST Commission.

G.L. Chapter 6E Section 8(b)(1) The head of a law enforcement agency [e.g., Brookline PD] shall transmit any complaint received by said agency within two (2) business days to the Division of Police Standards, in a form to be determined by the POST Commission;

- provided, that the form shall include, but shall not be limited to:
 - (i) the name and commission certification identification number of the subject officer
 - (ii) the date and location of the incident;
 - (iii) a description of circumstances of the conduct that is the subject of the complaint;
 - (iv) whether the complaint alleges that the officer's conduct:
 - (A) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
 - (B) was unprofessional;
 - (C) involved excessive, prohibited or deadly force; or
 - (D) resulted in serious bodily injury or death; and
 - (v) a copy of the original complaint submitted directly to the agency; provided, however, that the commission may establish a minimum threshold and streamlined process for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.

(2) Upon completion of the internal investigation of a complaint, the head of each law enforcement agency shall immediately transmit to the Division of Police Standards an investigation report in a form to be determined by the POST Commission;

- provided, that the form shall include, but shall not be limited to:
- (i) a description of the investigation and disposition of the complaint;
- (ii) any disciplinary action recommended by internal affairs or the supervising officer; and
- (iii) if the recommended disciplinary action included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

(3) Upon final disposition of the complaint, the head of each agency shall immediately transmit to the Division of Police Standards a final report in a form to be determined by the POST Commission;

- provided, that the form shall include, but shall not be limited to:
- (i) any disciplinary action initially recommend by internal affairs or the supervising officer;
- (ii) the final discipline imposed and a description of the adjudicatory process; and
- (iii) if the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the agency for disciplinary action by the commission including, retraining or suspension or revocation of the officer's certification.

(4) If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the division of police standards a report in a form to be determined by the commission; provided, that the form shall include, but shall not be limited to:

- (i) the officer's full employment history;
 - (ii) a description of the events or complaints surrounding the resignation;
- and
- (iii) a recommendation by the head of the agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

(5) Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the head of an agency to make a recommendation in their professional judgment to the commission relative to the certification status of an officer, after having followed the agency's internal affairs procedure and any appeal therefrom.

(c)(1) The Division of Police Standards shall initiate a preliminary inquiry into the conduct of a law enforcement officer if the POST Commission receives a complaint, report or other credible evidence that is deemed sufficient by the commission that the law enforcement officer:

- (i) was involved an officer-involved injury or death;
- (ii) committed a felony or misdemeanor, whether or not the officer has been arrested, indicted, charged or convicted;
- (iii) engaged in conduct prohibited pursuant to section 14 {Use of Force};
- (iv) engaged in conduct prohibited pursuant to section 15 {Failed to Intervene}; or
- (v) the commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the commission, including retraining or suspension or revocation of the officer's certification.

(2) The Division of Police Standards may initiate a preliminary inquiry into the conduct of a law enforcement officer upon receipt of a complaint, report or other credible evidence that is deemed sufficient by the POST Commission that the law enforcement officer may have engaged in prohibited conduct.

- All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the executive director may turn over to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding.

(3) The Division of Police Standards shall notify any law enforcement officer who is the subject of the preliminary inquiry, the head of their collective bargaining unit and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within thirty (30) days of the commencement of the inquiry.

(d) The Division of Police Standards may audit all records related to the complaints, investigations and investigative reports of any agency related to complaints of officer misconduct or unprofessionalism, including, but not limited to, personnel records.

- The commission shall promulgate rules and regulations establishing an audit procedure; provided, however, that said rules and regulations shall not limit the ability of the division of police standards to initiate an audit at any time and for any reason.

(e) The Division of Police Standards shall create and maintain a database containing information related to an officer's:

(i) receipt of complaints and related information, including, but not limited to: the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct:

- (A) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
- (B) was unprofessional;
- (C) involved excessive, prohibited or deadly force; or
- (D) resulted in serious bodily injury or death;

- (ii) allegations of untruthfulness;
- (iii) failure to follow commission training requirements;
- (iv) decertification by the commission;
- (v) agency-imposed discipline;
- (vi) termination for cause; and
- (vii) any other information the commission deems necessary or relevant.

(f) The Division of Police Standards shall actively monitor the database to identify patterns of unprofessional police conduct. Upon identification of a pattern of unprofessional police conduct, the Division of Police Standards may recommend the evidence in its possession for review in a preliminary inquiry.

(g) The Division of Police Standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

VI. SUSPENSION OF AN OFFICER'S POST CERTIFICATION

Pursuant to M.G.L. Chapter 6E Section 9:

(a)(1) The POST Commission shall immediately suspend the certification of any officer who is arrested, charged or indicted for a felony.

(2) If, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, the POST Commission concludes by a preponderance of the evidence that a law enforcement officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of said conduct, the commission *SHALL* immediately suspend an officer's certification.

(3) The POST Commission *MAY*, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, suspend the certification of any officer who is arrested,

charged or indicted for a misdemeanor, if the commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer.

(4) The POST Commission *may*, pending preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, suspend the certification of any officer if the commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety or welfare of the public.

(5) A suspension order of the POST Commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.

(b) The POST Commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the commission within 90 days of the deadline imposed by the commission;

- provided, however, that the commission may promulgate reasonable exemptions to this subsection, including, but not limited to, exemptions for:

- (1) injury or physical disability;
- (2) a leave of absence; or
- (3) other documented hardship.

- The commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the commission.

(c) The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to section 8 who fails to report such information.

- The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.

(d) A law enforcement officer whose certification is suspended by the commission pursuant to subsection (a), (b) or (c) shall be entitled to a hearing before a commissioner within 15 days. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to said subsection (a) (b) or (c) shall continue to be subject to chapter 31 and any applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

VII. REVOCATION OF AN OFFICER'S POST CERTIFICATION

Pursuant to M.G.L. Chapter 6E Section 10:

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PROCESS FOR POLICE DEPARTMENT DISCIPLINE AND SELECTMEN'S CIVILIAN COMPLAINT PROCESS AND SELECT BOARD REVIEW

11.A.

(a) The commission shall, after a hearing, REVOKE an officer's certification if the commission finds by clear and convincing evidence that:

- (i) the officer is convicted of a felony;
- (ii) the certification was issued as a result of administrative error;
- (iii) the certification was obtained through misrepresentation or fraud;
- (iv) the officer falsified any document in order to obtain or renew certification;
- (v) the officer has had a certification or other authorization revoked by another jurisdiction;
- (vi) the officer is terminated by their appointing agency, and
 - any appeal of said termination is completed,
 - based upon intentional conduct performed under the color of their office to:
 - obtain false confessions;
 - make a false arrest;
 - create or use falsified evidence, including false testimony or
 - destroying evidence to create a false impression;
 - engage in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or
 - directly or indirectly receive a reward, gift or gratuity on account of their official services;
- (vii) the officer has been convicted of submitting false timesheets in violation of section 85BB of chapter 231;
- (viii) the officer knowingly files a written police report containing a false statement or commits perjury, as defined in section 1 of chapter 268;
- (ix) the officer tampers with a record for use in an official proceeding, as defined in section 13E of chapter 268;
- (x) the officer used force in violation of section 14;
- (xi) the officer used excessive use of force resulting in death or serious bodily injury;
- (xii) the officer used a chokehold in violation of said section 14;
- (xiii) the officer engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;

11.A.

- (xiv) the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268;
 - (xv) the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;
 - (xvi) the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.
- (b) The commission *may*, after a hearing, *suspend or revoke* an officer's certification if the commission finds by clear and convincing evidence that the officer:
- (i) has been convicted of any misdemeanor;
 - (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
 - (iii) has a pattern of unprofessional police conduct that commission believes may escalate.
 - (iv) was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed; or
 - (v) has repeated sustained internal affairs complaints, for the same or different offenses.
- (c) The commission may reinstate the certificate of an officer suspended pursuant to subsection (b) at the expiration of the suspension, if the commission finds that all conditions of the suspension were met.
- (d) The commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer:
- (i) failed to comply with this chapter or commission regulations, reporting requirements or training requirements;
 - (ii) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
 - (iii) used excessive force;
 - (iv) failed to respond an incident according to established procedure;
 - (v) has a pattern of unprofessional police conduct;
 - (vi) was untruthful, except for a statement or action that mandates revocation pursuant to subsection (a);

(vii) was suspended or terminated by their appointing agency for disciplinary reasons, except those reasons which mandate revocation pursuant to said subsection (a);

(viii) fails to intervene to prevent another officer from engaging in prohibited conduct or behavior, except a failure to intervene in conduct that mandates revocation pursuant to said subsection (a); or

(ix) would benefit in their job performance if retrained.

(e) The commission shall immediately notify the officer and the head of the appointing agency of the officer who is decertified, suspended or ordered to undergo retraining of the order.

(f) The commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings, pursuant to sections 1, 8 and 10 to 14, inclusive, of chapter 30A. Any decision of the commission relative to a preliminary inquiry, revocation and suspension proceeding shall be appealable pursuant to chapter 30A. No adverse action taken against a certification by the commission pursuant to this section shall be appealable to the civil service commission established under chapter 31. No employment action taken by an appointing authority that results from a revocation by the commission pursuant to subsection (a) shall be appealable to the civil service commission established under chapter 31.

(g) The commission shall publish any revocation order and findings. The commission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

(h) An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the commission of the complaint being filed.

- The commission may, upon a showing of good cause, extend the time to complete the investigation. The commission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the commission, whichever is sooner.
- If the officer notifies the commission that the officer wishes to suspend such hearing pending an appeal or arbitration of the appointing agency's final disposition, the commission shall suspend the hearing. Any such suspension of the hearing shall not exceed 1 year from the officer's notice to the commission; provided, however, that at any time during which the hearing is so suspended and upon a showing of good cause by the officer, the commission shall further suspend the hearing for a period of not less than 6 months and not more than the commission determines is reasonable; provided, however, that any delay in instituting a revocation or suspension hearing shall

not exceed 1 year from the officer's request. If the officer notifies the commission that the officer wishes to suspend such hearing pending the resolution of criminal charges, the commission shall suspend the hearing; provided, however, that the officer's certification shall be suspended during the pendency of any delay in such hearing. This subsection shall not impact the commission's authority to suspend a certification pursuant to section 9.

VIII. DECERTIFIED OFFICERS NOT ELIGLE FOR EMPLOYMENT

Pursuant to G.L. Chapter 6E Section 11, neither any agency, nor a sheriff, nor the executive office of public safety nor any entity thereunder shall employ a decertified officer in any capacity, including, but not limited to, as a consultant or independent contractor.

IX. PROTECTIONS FOR TESTIFYING BEFORE POST

Pursuant to G.L. Chapter 6E Section 12, no officer or employee of the Commonwealth or of any county, city, town or district shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any other adverse action against an officer or employee or threaten to take any such action for providing information to the commission or testifying in any commission proceeding.

12.A.



Marijuana Research Study

Select Board Update

Marijuana Research Study Background

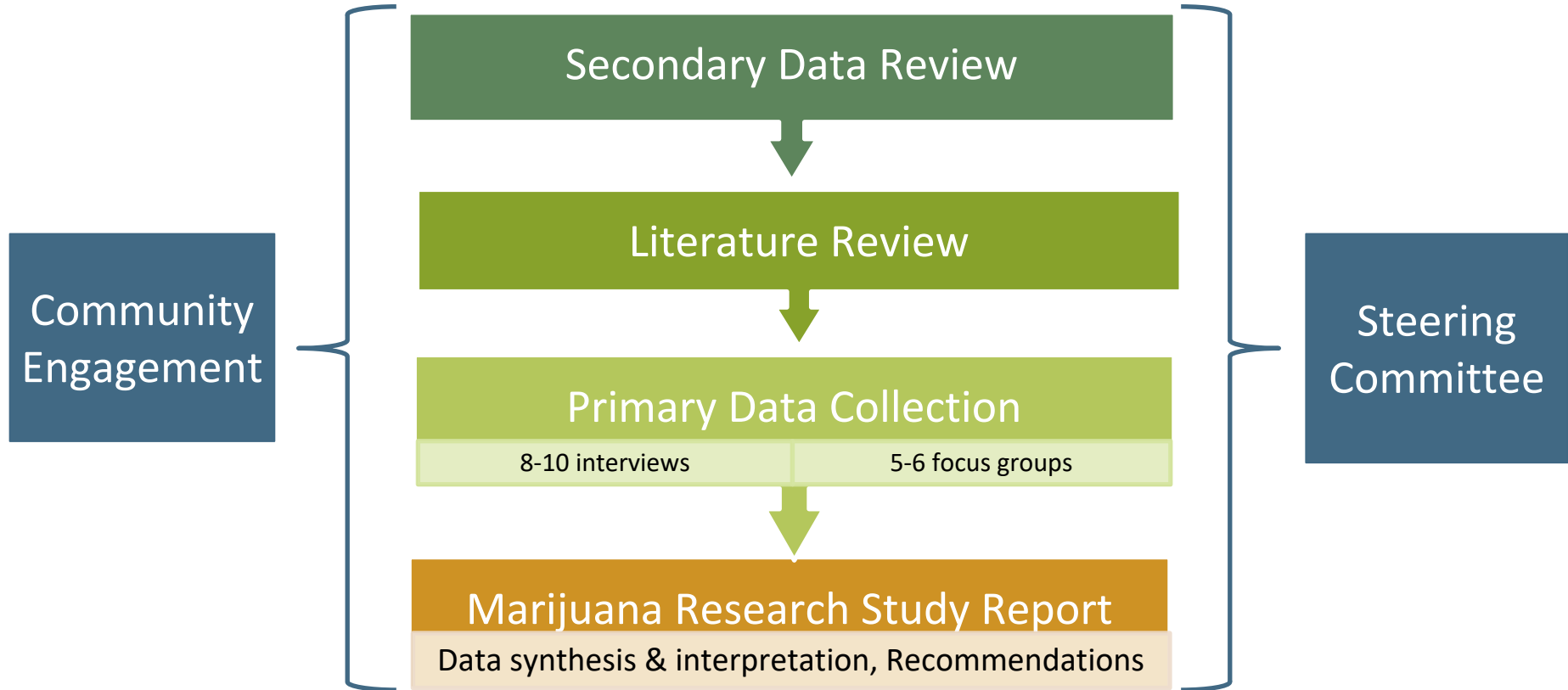
- Brookline November 2021 Town Meeting: Petitioners put forth Warrant Article (WA) 9 with a goal to establish a study committee to look at a variety of topics pertaining to marijuana and its impact on the town.
- Town Meeting opted not to pass the Article, but instead opted to make the following referral to the Advisory Council on Public Health (ACPH):

VOTED: That the subject matter of Warrant Article 9 be referred to the Advisory Council on Public Health; with a recommendation that the ACPH collaborate with the Brookline Department of Public Health on a community-based study or studies of marijuana's public health impacts, with particular attention to, but not limited to, mental health impacts on underage populations...

Marijuana Research Study Goals

- To understand and define the relative impacts of marijuana and other substances on the Town of Brookline, with a particular focus on youth
- To identify priority areas, address health disparities, and establish intervention strategies as it relates to substance use

Overview of Marijuana Research Study Process



Secondary Data Review

	Examples	Sources
Demographics and Disparities	<ul style="list-style-type: none"> Race/Ethnic composition by State, County, and Town 	<ul style="list-style-type: none"> US Census Data
Usage and Access or Sourcing	<ul style="list-style-type: none"> Percentage of MA high school students who report using Marijuana Source of Cannabis Access by Age Reasons for Avoiding Legal Cannabis Purchase by Age 	<ul style="list-style-type: none"> Health and Use Risk Factors of MA Youth Survey - MDPH Youth Risk Behavior Survey - BDPHHS Brookline Marijuana Survey - BDPHHS Cannabis Use Trends in Massachusetts – MA CCC
Social Norms, Attitudes, and Knowledge	<ul style="list-style-type: none"> Average Number of Friends that Use Marijuana out of Their Top Five Closest Friends Percentage of Massachusetts High School Students who Reported Parental/Family Disapproval of Marijuana Use 	<ul style="list-style-type: none"> Health and Use Risk Factors of MA Youth Survey - MDPH Youth Risk Behavior Survey - BDPHHS Brookline Marijuana Survey - BDPHHS Cannabis Use Trends in Massachusetts – MA CCC
Harms, Benefits, and Impacts	<ul style="list-style-type: none"> Percentage of Residents Who Feel the Marijuana Dispensaries Benefit the Town of Brookline Financially Percentage of Residents Who Feel Unsafe in Their Neighborhood Because of the Marijuana Dispensaries 	<ul style="list-style-type: none"> Brookline Marijuana Survey - BDPHHS Cannabis Use Trends in Massachusetts – MA CCC

Literature Review

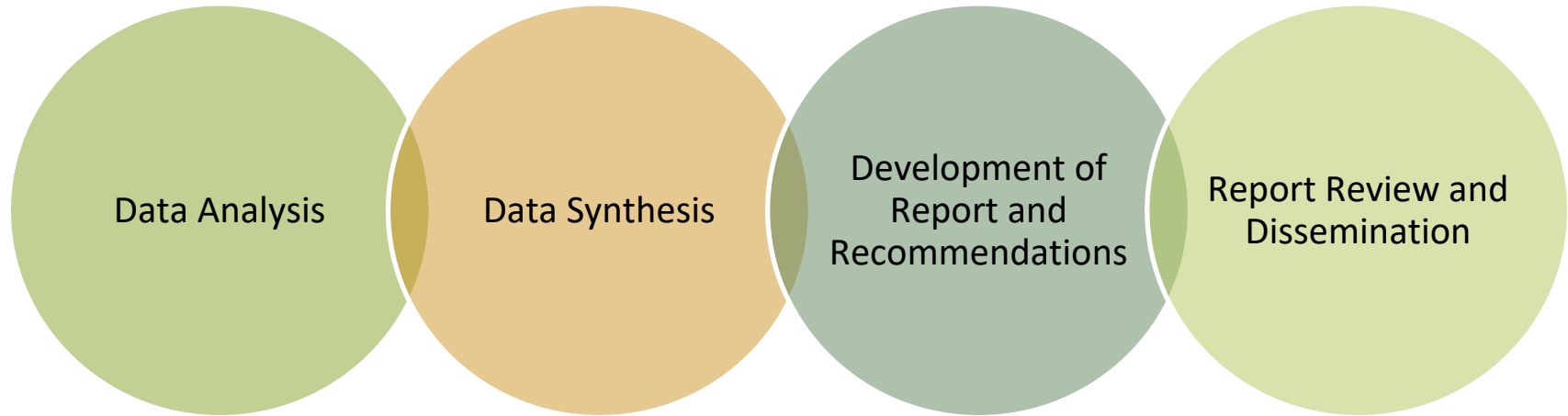
- Impact of availability
- Impact of marijuana on mental health
- Impact of mental health on marijuana use
- Relationship between marijuana and academics, sports, extracurriculars, and social lives
- Impact of peer pressure on use
- Impact of advertising on marijuana use
- Impact of parental involvement vs discouragement
- Perceived norms and use among peers and the community
- Methods by which youth acquire marijuana
- Impact of racial and economic disparities on use

Primary Data Collection

12.A.



12.A. Marijuana Research Study Report



Steering Committee Members

Community Members:

- Teen Center/Social Worker
- Parent
- School – Director of Counseling
- School – Dean of Upper School
- Office of Diversity Inclusion & Community Relations
- Student Peer Leaders (2)
- Cannabis Trailer, Quality Assurance Manager
- Law Enforcement
- Advisory Council on Public Health Member (2)

Brookline Public Health and Human Services Staff:

- Director
- Assistant Director of Public Health Policy
- Substance Use Prevention Division Director
- Community Health Education Specialist

Steering Committee Roles and Responsibilities



- Oversee key phases of the process such as:
 - Reviewing interview and focus group topics
 - Providing suggestions on populations and individuals to engage in data collection
 - Providing recommendations on additional resources for data
 - Providing feedback on preliminary results
 - Disseminating the report to various populations of interest

Stakeholder Segments

Healthcare/Mental Health/Social Work

- School-based health centers
- Healthcare providers
- Addiction specialists
- Community health centers

Organizations/Non-Profits

- Faith-based
- Family/youth services
- Social services
- After-school programs

Education

- Public schools
- Colleges/universities
- Teachers
- Coaches

Government

- Public health department
- Children and family's department
- Public safety

Retail/Industry

- Dispensary staff
- Dispensary owners
- Professional marijuana associations

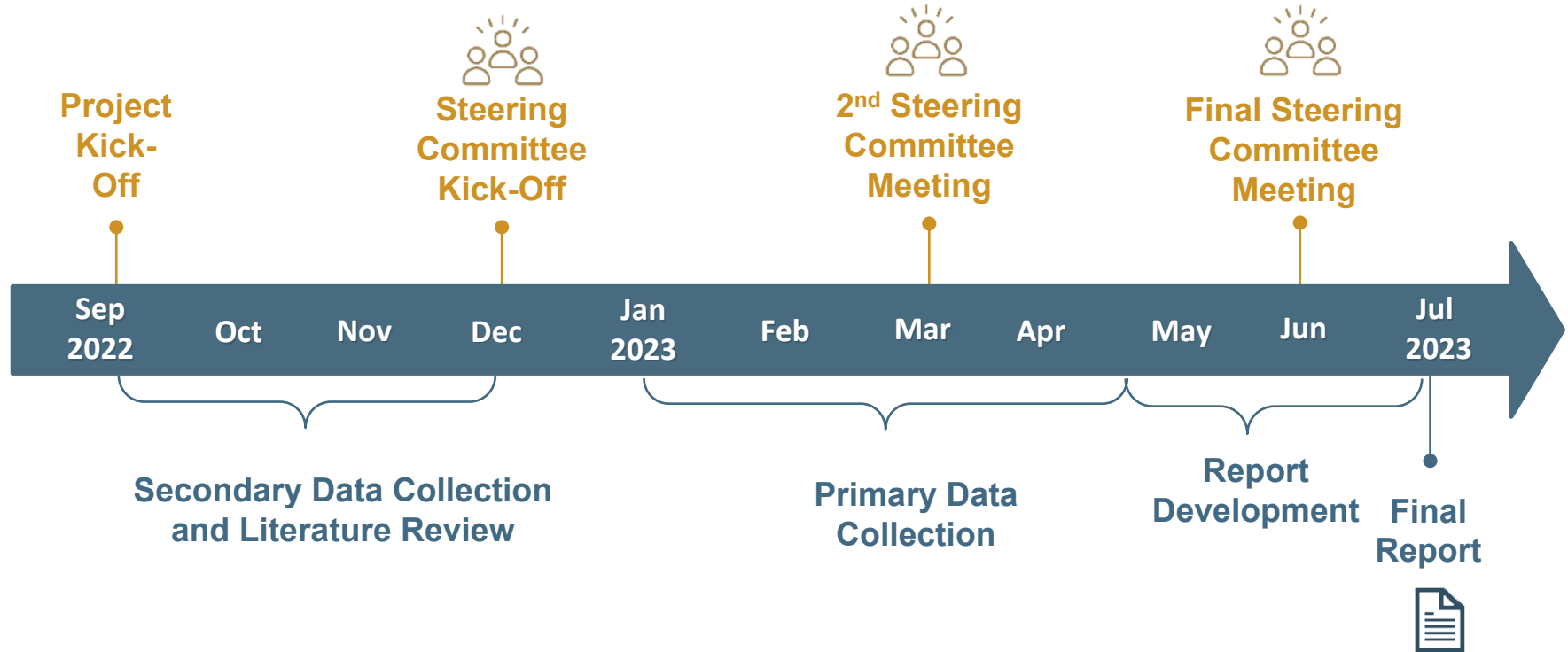
Advocacy Groups

- Addiction support groups
- Prevention and education groups

Parents

- Parent support groups
- Parent advocacy groups

Overview of Project Approach & Timeline



Online Form Submittal: Committee Reappointment Interest Form

notifications@brooklinema.gov <notifications@brooklinema.gov>

Fri 12/9/2022 6:17 PM

To: Devon Fields <dfields@brooklinema.gov>

Committee Reappointment Interest Form

Date	12/9/2022
Name	Mark
Email:	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Committee you are a member of?	Planning Board
List of accomplishments in the last 3 year	Member of Planning Board and serving as Clerk. Member of two Design Advisory Team Member of Boylston Street Corridor Study committee Co-wrote update for counterbalancing amenities for projects requiring zoning relief
Future Goals	Continue on to define how 40a section 6 interpretation can be addressed Work towards updating Brookline's Comprehensive Plan and updated zoning
Question ? Please contact the Select Board at selectboard@brooklinema.gov, 617 730-2200	

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